

ADJOURNMENT

The President Pro Tempore at 7:01 p.m. announced that the Senate would, in accordance to a previously adopted motion, stand adjourned until 11:00 a.m. tomorrow.

THIRD DAY

(Thursday, June 7, 1990)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by President Pro Tempore McFarland.

The roll was called and the following Senators were present: Armbrister, Barrientos, Brooks, Caperton, Carriker, Dickson, Edwards, Ellis, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, McFarland, Montford, Parker, Ratliff, Tejeda, Uribe, Whitmire, Zaffirini.

Absent-excused: Bivins, Brown, Leedom, Lyon, Parmer, Santiesteban, Sims, Truan.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Heavenly Father, this morning we offer a prayer of gratitude for all those who have made a contribution as these members and their staffs worked through the tough issues that required these special sessions. As this sixth special session concludes its business, we pray for the members as they return to their homes and families. For those who will not return, we say a special word of thanks for the investment they have made here and wish for them Godspeed and sustaining grace for whatever lies before them.

This is our prayer today in the name of our Lord. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senators Bivins, Brown, Leedom, Lyon, Parmer, Santiesteban, Sims and Truan were granted leave of absence for today on account of important business on motion of Senator Brooks.

REPORT OF STANDING COMMITTEE

Senator Montford submitted the following report for the Committee on State Affairs:

H.B. 7 (Amended)**CAPITOL PHYSICIAN**

Senator Caperton was recognized and presented Dr. H. David Pope, Jr., of Bryan.

Dr. Pope, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

MESSAGE FROM THE HOUSE

House Chamber
June 7, 1990

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House concurred in Senate amendments to H.C.R. 22 by a non-record vote.

Respectfully,
BETTY MURRAY, Chief Clerk
House of Representatives

(Senator Brooks in Chair)

**CONFERENCE COMMITTEE REPORT
SENATE BILL 41**

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
June 7, 1990

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 41 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

McFARLAND
DICKSON
TEJEDA
RATLIFF

On the part of the Senate

HIGHTOWER
STILES
JONES

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the operations of the institutional division, pardons and paroles division, and community justice assistance division of the Texas Department of Criminal Justice and the operations of the Texas Council on Offenders with Mental Impairments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.02(c), Chapter 785, Acts of the 71st Legislature, Regular Session, 1989 (Article 4413(401), Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The board shall maintain headquarters in Austin. The department shall maintain dual [duet] headquarters in Austin and Huntsville. The institutional division shall maintain its headquarters in Huntsville and may not assign more than

15 personnel to Austin. The board shall attempt to locate all Austin offices in one building or in buildings that are in close proximity to one another.

SECTION 2. Section 1.11(a), Chapter 785, Acts of the 71st Legislature, Regular Session, 1989 (Article 4413(401), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The following divisions are established within the department:

- (1) the community justice assistance division;
- (2) the institutional division; and
- (3) the pardons and paroles ~~[Board of Pardons and Paroles]~~ division.

SECTION 3. Section 1.12(a), Chapter 785, Acts of the 71st Legislature, Regular Session, 1989 (Article 4413(401), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The community justice assistance division shall:

- (1) establish minimum standards for programs, facilities, and services provided by community supervision and corrections departments; and
- (2) ~~[certify and]~~ fund programs, facilities, and services for community supervision and corrections departments.

SECTION 4. Section 1.14, Chapter 785, Acts of the 71st Legislature, Regular Session, 1989 (Article 4413(401), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.14. ~~[BOARD OF]~~ PARDONS AND PAROLES DIVISION. The pardons and paroles ~~[Board of Pardons and Paroles]~~ division shall supervise and reintegrate felons into society after release from confinement:

- ~~[(1) determine which prisoners are to be released on parole;~~
- ~~[(2) determine conditions of parole and mandatory supervision and make decisions relating to revocations of parole and mandatory supervision; and~~
- ~~[(3) perform the constitutional duties imposed on the board by Article IV, Section 11, of the Texas Constitution].~~

SECTION 5. Section 1.20(f), Chapter 785, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(f) On and after January 1, 1990, a reference in the law to the:

- (1) Texas Adult Probation Commission means the community justice assistance division of the Texas Department of Criminal Justice; and
- (2) Board of Pardons and Paroles means:

(A) the Board of Pardons and Paroles in any statute relating to a subject under the board's jurisdiction as provided by Article 42.18, Code of Criminal Procedure; or

(B) the pardons and paroles division of the Texas Department of Criminal Justice in any statute relating to a subject under the division's jurisdiction as provided by Article 42.18, Code of Criminal Procedure.

SECTION 6. Section 351.184(a), Local Government Code, is amended to read as follows:

(a) In order to certify county correctional centers as eligible for state funding under Section 11(b)(6), Article 42.13, Code of Criminal Procedure, the community justice assistance division of the Texas Department of Criminal Justice, with the assistance of the Commission on Jail Standards, shall develop standards for the physical plant and operations of county correctional centers.

SECTION 7. Section 12.34(a), Penal Code, is amended to read as follows:

(a) An individual adjudged guilty of a felony of the third degree shall be punished by:

- (1) confinement in the institutional division of the Texas Department of Criminal Justice [Corrections] for any term of not more than 10 years or less than 2 years; or
- (2) confinement in a community correctional facility for any term of not more than 1 year.

SECTION 8. Section 11(b), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(b) A court may not order a probationer to make any payments as a term or condition of probation, except for fines, court costs, restitution to the victim, and other terms or conditions related personally to the rehabilitation of the probationer or otherwise expressly authorized by law. The court shall consider the ability of the probationer to make payments in ordering the probationer to make payments under this article.

SECTION 9. Section 17, Article 42.12, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) If the court places a defendant on probation, the court may require, as a condition of the probation, that the defendant work a specified number of hours at a [specified] community service project or projects for an organization or organizations named in the court's order, and may also require that the defendant submit to testing for controlled substances.

(c) A director of a community supervision and corrections department, an employee of a department, or an officer of a state agency or political subdivision is not liable for damages arising from an act or failure to act by the director, employee, or officer in connection with a community restitution service program described by this section if the act or failure to act:

(1) was performed in an official capacity; and

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(d) Chapter 101, Civil Practice and Remedies Code, does not apply to a claim based on an act or a failure to act of a community supervision and corrections department, a director, officer, or employee of a department, a state agency or political subdivision, or an officer or employee of a state agency or political subdivision if the act or failure to act is in connection with a community service program.

SECTION 10. Section 18(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) If a judge places a defendant on probation under any provision of this article as an alternative to imprisonment ~~[and the probation department has prepared a risk assessment instrument or indicates to the court its intention to prepare an instrument to submit to the criminal justice assistance division within 30 days]~~, the judge may require as a condition of probation that the defendant serve a term of not less than three months or more than 12 months in a restitution center if:

(1) the district is served by a restitution center or contracts with a department that agrees to provide spaces in its restitution center;

(2) the defendant is not sentenced for a felony offense under Title 5, Penal Code; and

(3) the trier of facts determines that the defendant did not cause the serious bodily injury or death of another as a result of the commission of the offense or use a deadly weapon during the commission of or flight from the offense.

SECTION 11. Section 20, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

Sec. 20. **INTENSIVE OR MAXIMUM PROBATION.** If a judge determines that a defendant whom the judge would otherwise sentence to the institutional division of the Texas Department of Criminal Justice ~~[Corrections]~~ would benefit from intensive or maximum probation, the judge shall suspend imposition of the sentence and place the defendant on intensive or maximum probation.

SECTION 12. Section 25(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) If after a hearing under Section 24 of this article a court continues or modifies a felony probation after determining that the probationer violated a condition of probation, the court shall impose one or more of the following sanctions on the probationer:

(1) a requirement that the probationer perform work probation or community service for a number of hours specified by the court under Section 16 or 17 of this article, or an increase in the number of hours that the probationer has previously been required to perform under those sections;

(2) an increase in the period of probation, in the manner described by Subsection (b) of this section;

(3) an increase in the probationer's fine, in the manner described by Subsection (c) of this section;

(4) the placement of the probationer in an intensive or maximum probation program, in the same manner and under the same conditions as if the court had originally placed the probationer in that program;

(5) the placement of the probationer in an electronic monitoring program under Section 21 of this article;

(6) confinement in the county jail for a period not to exceed 30 days, to be served consecutively, or at the discretion of the court, in the manner provided by Article 42.033 or 42.034 of this code;

(7) placement in a community corrections facility, in the same manner and under the same conditions as if the court had originally placed the probationer in that program, if the probationer would have been eligible for sentencing to the center on conviction of the offense for which the probationer received probation;

(8) confinement in the county jail for a period not to exceed 90 days, to be served consecutively; or

(9) confinement in a trusty facility operated by the institutional division of the Texas Department of Criminal Justice for a period of either 60 or 90 days, as specified by the court, if the court enters in the order modifying probation a statement that the court has previously imposed three or more sanctions on the defendant under this section.

SECTION 13. Section 3(b), Article 42.13, Code of Criminal Procedure, is amended to read as follows:

(b) The division shall develop an automated probationer ~~[information management and]~~ tracking system that:

(1) is capable of receiving tracking data from community supervision and corrections departments ~~[provides a]~~ caseload management and accounting systems ~~[system that enables department supervision officers and caseworkers to enter and retrieve caseload data]~~;

(2) is capable of tracking the probationer and the conviction for which the probationer received probation by name, arrest charge code, and incident number;

(3) provides the division with the statistical data it needs to support budget requests and satisfy requests for information; and

(4) ~~[(3)]~~ is compatible with the requirements of Chapter 60 of this code and the information systems used by the institutional division and Board of Pardons and Paroles division of the department.

SECTION 14. Section 6(d), Article 42.13, Code of Criminal Procedure, is amended to read as follows:

(d) The community justice plan submitted under this section must include, in addition to the information required by Subsection (b) of this section, a budget and program schedule detailing the application of state funding to the programs proposed in the plan and any other information required by the division.

SECTION 15. Sections 11(a) and (b), Article 42.13, Code of Criminal Procedure, are amended to read as follows:

(a) If the division determines that a department complies with division standards and if the department or judges managing the department have submitted a community justice plan under Section 3, Article 42.131 of this code and the supporting information required by this article and the division determines the plan is acceptable, the division shall prepare and submit to the comptroller of public accounts vouchers for payment to the department as follows:

(1) an annual amount as provided in the General Appropriations Act for each full-time officer or each full-time equivalent employed by the department who supervises any combination of felony probationers that results in a workload unit level that does not exceed 100, as determined under Subsection (c) of this section;

(2) a per diem amount as provided in the General Appropriations Act for each misdemeanor probationer supervised by the department, other than a misdemeanor probationer under supervision after the first anniversary of the date on which the probationer was placed on probation; and

(3) an annual amount as computed by multiplying the percentage of institutional admissions [beds] allocated to the county or counties served by the department under Article 6166a-4, Revised Statutes, times the total amount provided in the General Appropriations Act for payments under this subdivision.

(b) ~~The division may use discretionary grant funds to further the purposes of this chapter by contracting for services with state agencies or nonprofit organizations. The division may also make discretionary grants to departments, municipalities, or counties, with a preference to making grants to counties and to departments serving counties from which fewer persons are sentenced to the institutional division than permitted by the allocation formula;] for the following purposes:~~

(1) development of pretrial and presentencing services;

(2) electronic monitoring programs, surveillance probation programs, and controlled substances testing programs;

(3) research projects to evaluate the effectiveness of community corrections programs, if the research is conducted in cooperation with the Criminal Justice Policy Council;

(4) contract services for felony probationers;

(5) residential services for misdemeanor probationers who exhibit levels of risk or needs indicating a need for confinement and treatment, as described by Subsection (d) of this section;

(6) establishment or operation of county correctional centers under Subchapter H, Chapter 351, Local Government Code, or community corrections facilities for which the division has established standards under Section 5 of this article, subject to payment methods established under Subsection (e) of this section; and

(7) other purposes determined appropriate by the division and approved by the board.

SECTION 16. Section 2(a), Article 42.131, Code of Criminal Procedure, is amended to read as follows:

(a) The district judge or district judges trying criminal cases in each judicial district in the state shall establish a community supervision and corrections department and employ district personnel as may be necessary to conduct presentence investigations and risk assessments, supervise and rehabilitate probationers, enforce the terms and conditions of probation, and staff community corrections facilities. Both the district judges trying criminal cases and the judges of statutory county courts trying criminal cases that are served by a community

supervision and corrections department are entitled to participate in the management of the department.

SECTION 17. Section 6, Article 42.131, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) The department shall provide transportation or automobile allowances for officers who supervise probationers.

SECTION 18. Section 11, Article 42.131, Code of Criminal Procedure, is amended to read as follows:

Sec. 11. PRETRIAL SERVICES. (a) The department may operate programs for the supervision and rehabilitation of persons in pretrial intervention programs. Programs may include testing for controlled substances. Persons in pretrial intervention programs may be supervised for a period not to exceed one year [and may be assessed a supervisory fee, a program fee, or both fees, provided that the total amount of fees does not exceed \$500].

(b) The department may use money deposited in the special fund of the county treasury for the department under Article 103.004(b) of this code only for the same purposes for which state aid may be used under this article.

SECTION 19. Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Art. 42.18. ADULT PAROLE AND MANDATORY SUPERVISION LAW

Sec. 1. INTENT. It is the intent of this article to provide for the release of appropriate persons on parole, to designate the Board of Pardons and Paroles as the exclusive authority to determine paroles, and to aid all prisoners to readjust to society upon completion of their period of incarceration by providing a program of mandatory supervision for those prisoners not released on parole or through executive clemency. It is the final intent of this article to remove from existing statutes the limitations, other than questions of constitutionality, that have acted as barriers to effective systems of parole and mandatory supervision in the public interest.

Sec. 2. DEFINITIONS. In this article:

(1) "Parole" means the discretionary and conditional release of an eligible prisoner from the physical custody of the institutional division of the Texas Department of Criminal Justice if the prisoner contractually agrees to serve the remainder of his sentence under the supervision and control of the pardons and paroles division [board]. Parole shall not be construed to mean a commutation of sentence or any other form of executive clemency.

(2) "Mandatory supervision" means the release of an eligible prisoner from the physical custody of the institutional division but not on parole, to serve the remainder of his sentence under the supervision and control of the pardons and paroles division [board]. Mandatory supervision may not be construed as a commutation of sentence or any other form of executive clemency.

(3) "Parole officer" means a person duly appointed by the director and assigned the duties of assessment of risks and needs, investigation, case management, and supervision of paroled prisoners and prisoners released to mandatory supervision to see that parolees and mandatory supervision releasees are complying with the conditions of parole or mandatory supervision, as applicable.

(4) "Board" means the Board of Pardons and Paroles [division of the Texas Department of Criminal Justice].

(5) "Director" means the director of the pardons and paroles division [board].

(6) "Community supervision and corrections department" means a department established by a district judge or district judges under Article 42.131 of this code.

(7) "Institutional division" means the institutional division of the Texas Department of Criminal Justice.

(8) "Pardons and paroles division" means the pardons and paroles division of the Texas Department of Criminal Justice.

Sec. 3. SIZE OF BOARD; TERMS; VACANCIES. (a) ~~[The board is a division of the Texas Department of Criminal Justice.]~~ The board consists of 18 members appointed by the governor with the advice and consent of the senate.

(b) Members hold office for terms of six years, except that the governor may remove a member of the board, ~~other than a member appointed by another governor,~~ at any time and for any reason~~[, subject to the approval of a majority of each house of the Legislative Criminal Justice Board]~~. The terms expire on February 1 of odd-numbered years.

(c) If a vacancy occurs, the governor shall appoint a person to serve the remainder of the unexpired term in the same manner as other appointments.

Sec. 4. ELIGIBILITY FOR MEMBERSHIP. (a) Board members must be representative of the general public. A member must be a resident citizen of this state and must have resided in this state for the two years preceding appointment. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the Texas Department of Criminal Justice;

(2) owns or controls directly or indirectly more than a 10 percent interest in a business entity or other organization regulated by the Texas Department of Criminal Justice or receiving funds from the department; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the Texas Department of Criminal Justice, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) An employee or paid officer or consultant of a trade association in the field of criminal justice may not be a member ~~[or employee]~~ of the board ~~or employee of the pardons and paroles division~~. A person who is the spouse of any manager or paid consultant of a trade association in the field of criminal justice may not be a member of the board and may not be an employee ~~of the pardons and paroles division~~, including an employee exempt from the state's classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the board, may not serve as a member of the board or act as the general counsel to the ~~pardons and paroles division [board]~~.

(d) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

(e) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of this section for appointment to the board;

(2) does not maintain during the member's service on the board the qualifications required by Subsection (a) of this section for appointment to the board;

(3) violates a prohibition established by Subsections (b) and (c) of this section;

(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or
 (5) is absent from more than half of the regularly scheduled board or panel meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the board.

(f) The validity of an action of the board or panel is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

(g) If the director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the Texas Board of Criminal Justice of the ground. The chairman of the Texas Board of Criminal Justice shall then notify the governor that a potential ground for removal exists.

(h) [(k)] The financial transactions of the pardons and paroles division [agency] are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 5. SUNSET PROVISIONS. The board is subject to Chapter 325, Government Code (Texas Sunset Act) [~~the Texas Sunset Act~~], but [it] is not abolished under that chapter [Act]. The board and the division shall be reviewed under Chapter 325, Government Code (Texas Sunset Act) [~~the Texas Sunset Act~~] during the period in which the Texas Department of Criminal Justice is reviewed.

Sec. 6. COMPENSATION AND OFFICES OF BOARD MEMBERS; DIRECTOR. (a) The members of the board shall give full time to the duties of their office and shall be paid such salaries as the legislature may determine in appropriation Acts. The governor shall designate one member to serve as chairman of the board, and the chairman serves in that capacity at the pleasure of the governor.

(b) The executive director of the Texas Department of Criminal Justice shall hire the director. The director is responsible for the day-to-day administration of the pardons and paroles division [~~staff of the board~~].

Sec. 7. DUTIES OF MEMBERS OF BOARD. (a) The members of the board shall:

(1) determine under Sections 8(a)-(f) of this article which prisoners are to be released on parole;

(2) determine under Sections 8(g) and (j) of this article conditions of parole and mandatory supervision;

(3) perform the constitutional duties imposed on the board by Article IV, Section 11, of the Texas Constitution; [and]

(4) determine which prisoners may be released from supervision and reporting under Section 15 of this article; and

(5) determine under Section 14 of this article the revocation of parole and mandatory supervision.

(b) A parole panel, as provided in Subsection (e) of this section, may grant, deny, or revoke [~~recommend the granting, denial, or revocation of~~] parole, revoke [~~and the revocation of~~] mandatory supervision status, and [may] conduct parole revocation hearings and mandatory supervision revocation hearings.

(c) The Texas Board of Criminal Justice shall develop and implement a policy that clearly defines circumstances under which a board member should disqualify himself from voting on a parole decision or on a decision to revoke parole or mandatory supervision.

(d) The Texas Board of Criminal Justice may provide and promulgate a written plan for the administrative review by the entire membership or a subset of the entire membership of the board of actions taken by a parole panel.

(e) In matters of parole, release to mandatory supervision, and revocation of parole or mandatory supervision, the board members shall act in panels comprised of three persons in each panel. The composition of the respective panels shall be

designated by the chairman of the board. A majority of each panel shall constitute a quorum for the transaction of its business, and its decisions shall be by majority vote.

(f) The members of the board shall meet at least once in each quarter of the calendar year at a site determined by the chairman for the purpose of making clemency decisions. As a specific exception to Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), the board, at the call of the chair, may hold a hearing on clemency matters by telephone conference call. The portion of a meeting that is public shall be recorded and the recording made available to the public to be heard at one or more places designated by the board.

Sec. 8. ELIGIBILITY FOR RELEASE; CONDITIONS ON RELEASE. (a) A parole panel [The board] is authorized to release on parole any person confined in any penal or correctional institution who is eligible for parole under this section. A parole panel [The board] may consider a person for release on parole if the person has been sentenced to a term of imprisonment in the institutional division, is confined in a jail in this state, a federal correctional institution, or a jail or a correctional institution in another state, and is eligible for parole. A parole panel [The board] may release a person on parole during the tentative parole month established for the person if the panel [board] determines that the person's release will not increase the likelihood of harm to the public or that the person has not failed to progress in the manner required by the panel [board] in Subsection (e) of this section. The institutional division may provide the pardons and paroles division [board] with sentence time credit information on persons described in this subsection and the pardons and paroles division [board] may develop its own sentence time credit information on persons described by this subsection, but in either event, good time credit shall be calculated for a person as if the person were confined in the institutional division during the entire time the person was actually confined. The period of parole shall be equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. Every prisoner while on parole shall remain in the legal custody of the pardons and paroles division [state] and shall be amenable to conditions of supervision ordered under this article [by the board]. All paroles shall issue upon order of a parole panel [the board].

(b) A prisoner under sentence of death is not eligible for parole. If a prisoner is serving a sentence for the offenses listed in Subdivision (1), Subsection (a), Section 3g, Article 42.12 of this code, or if the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals one-fourth of the maximum sentence or 15 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years. All other prisoners shall be eligible for release on parole when their calendar time served plus good conduct time equals one-fourth of the maximum sentence imposed or 15 years, whichever is less.

(c) Except as otherwise provided by this subsection, a prisoner who is not on parole shall be released to mandatory supervision by order of a parole panel [the board] when the calendar time he has served plus any accrued good conduct time equal the maximum term to which he was sentenced. A prisoner released to mandatory supervision shall, upon release, be deemed as if released on parole. To the extent practicable, arrangements for the prisoner's proper employment, maintenance, and care shall be made prior to his release to mandatory supervision. The period of mandatory supervision shall be for a period equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. The time served on mandatory supervision is calculated as

calendar time. Every prisoner while on mandatory supervision shall remain in the legal custody of the state and shall be amenable to conditions of supervision ordered by the parole panel [board]. A prisoner may not be released to mandatory supervision if the prisoner is serving a sentence for an offense and the judgment for the offense contains an affirmative finding under Subdivision (2), Subsection (a), Section 3g, Article 42.12, of this code or if the prisoner is serving a sentence for:

- (1) a first degree felony under Section 19.02, Penal Code (Murder);
- (2) a capital felony under Section 19.03, Penal Code (Capital Murder);
- (3) a first degree felony or a second degree felony under Section 20.04, Penal Code (Aggravated Kidnapping);
- (4) a second degree felony under Section 22.011, Penal Code (Sexual Assault);
- (5) a second degree or third degree felony under Section 22.02, Penal Code (Aggravated Assault);
- (6) a first degree felony under Section 22.021, Penal Code (Aggravated Sexual Assault);
- (7) a first degree felony under Section 22.03, Penal Code (Deadly Assault on Law Enforcement or Corrections Officer or Court Participant);
- (8) a first degree felony under Section 22.04, Penal Code (Injury to a Child or an Elderly Individual);
- (9) a first degree felony under Section 28.02, Penal Code (Arson);
- (10) a second degree felony under Section 29.02, Penal Code (Robbery);
- (11) a first degree felony under Section 29.03, Penal Code (Aggravated Robbery); or
- (12) a first degree felony under Section 30.02, Penal Code (Burglary), if the offense is punished under Subsection (d)(2) or (d)(3) of that section.

(d)(1) If a prisoner is sentenced to consecutive felony sentences under Article 42.08 of this code, a parole panel [~~the board~~] shall designate during each sentence the date, if any, on which the prisoner would have been eligible for release on parole if the prisoner had been sentenced to serve a single sentence.

(2) For the purposes of Article 42.08 of this code, the judgment and sentence of a prisoner sentenced for a felony, other than the last sentence in a series of consecutive sentences, cease to operate:

(A) when the actual calendar time served by the prisoner equals the sentence imposed by the court; or

(B) on the date a parole panel [~~the board~~] designates as the date on which the prisoner would have been eligible for release on parole if the prisoner had been sentenced to serve a single sentence.

(3) A parole panel [~~The board~~] may not treat consecutive sentences as a single sentence for purposes of parole and may not release on parole a prisoner sentenced to serve consecutive felony sentences earlier than the date on which the prisoner becomes eligible for release on parole from the last sentence imposed on the prisoner.

(4) Calendar time served and good conduct time accrued by a prisoner that are used by a parole panel [~~the board~~] in determining when a judgment and sentence cease to operate may not be used by the panel [board]:

(A) for the same purpose in determining that date in a subsequent sentence in the same series of consecutive sentences; or

(B) for determining the date on which a prisoner becomes eligible for release on parole from the last sentence in a series of consecutive sentences.

(e) Not later than the 120th day after the date on which a prisoner is admitted to the institutional division, the pardons and paroles division [~~the board~~] shall

secure all pertinent information relating to the prisoner, including but not limited to the court judgment, any sentencing report, the circumstances of the prisoner's offense, the prisoner's previous social history and criminal record, the prisoner's physical and mental health record, a record of the prisoner's conduct, employment history, and attitude in prison, and any written comments or information provided by local trial officials or victims of the offense. Except as otherwise provided by this subsection, within the 120-day period, the pardons and paroles division [board] shall establish a tentative parole month for the prisoner based on information gathered under this subsection and a proposed program of measurable institutional progress in which the pardons and paroles division [board] determines the prisoner must agree to participate and meet the requirements before being released on parole. The pardons and paroles division [board] is not required to establish a tentative parole month and program of progress if the pardons and paroles division [board] determines that to do so would be inappropriate in the prisoner's case and indicates that determination in the prisoner's file. The pardons and paroles division [board] shall notify the institutional division of each prisoner's tentative parole month and proposed program of measurable institutional progress. Within 30 days of receipt of [the board's] notice from the pardons and paroles division, the institutional division shall advise the pardons and paroles division [board] if any of the proposed programs of measurable institutional progress or the requirements of those programs cannot be achieved within the prisoner's unit of incarceration. The tentative parole month may not be a date that is earlier than the prisoner's initial parole eligibility date, as calculated or projected under Subsection (b) of this section. The pardons and paroles division [board] may revise a tentative parole month established under this subsection at any time the pardons and paroles division [board] determines is proper. The institutional division shall work closely with the pardons and paroles division [board] to monitor the progress of inmates in the institutional division [carry out the tentative parole program. The board and the institutional division shall adopt a memorandum of understanding that establishes the respective responsibility of the board and the institutional division in the operation of the tentative parole program and in the monitoring of the progress of inmates in the institutional division. The memorandum must also establish an information committee that includes representatives of the board and the institutional division and meets regularly to assess information needs, solve information-flow problems, and reduce duplication in information-gathering. The information committee shall work towards the development of a common data base that meets the needs of both the board and the institutional division. The board and the institutional division shall coordinate the development of the memorandum of understanding and each by rule shall adopt the memorandum].

(f)(1) In this subsection: (A) "close relative of a deceased victim" means a person who was the spouse of a deceased victim at the time of the victim's death, a parent of the deceased victim, or an adult brother, sister, or child of the deceased victim; (B) "guardian of a victim" means a person who is the legal guardian of a victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim; and (C) "victim" means a person who is a victim of sexual assault, kidnapping, or aggravated robbery or who has suffered bodily injury or death as the result of the criminal conduct of another.

(2) Before a parole panel considers [considering] for parole a prisoner who is serving a sentence for an offense in which a person was a victim, the pardons and paroles division [board], using the name and address provided on the victim impact statement, shall make a reasonable effort to notify a victim of the prisoner's crime or if the victim has a legal guardian or is deceased, to notify the legal guardian or close relative of the deceased victim. If the notice is sent to a guardian or close

relative of a deceased victim, the notice must contain a request by the pardons and paroles division [board] that the guardian or relative inform other persons having an interest in the matter that the prisoner is being considered for parole. If a hearing is held, the parole panel [board] shall allow a victim, guardian of a victim, close relative of a deceased victim, or a representative of a victim or his guardian or close relative to provide a written statement. This subsection may not be construed to limit the number of persons who may provide statements for or against the release of the prisoner on parole. The parole panel [board] shall consider the statements and the information provided in a victim impact statement in determining whether or not to recommend parole. However, the failure of the pardons and paroles division [board] to comply with notice requirements of this subsection is not a ground for revocation of parole.

(3) If a victim, guardian of a victim, or close relative of a deceased victim would be entitled to notification of parole consideration by the pardons and paroles division [board] but for failure by that person to provide a victim impact statement containing the person's name and address, the person is nonetheless entitled to receive notice if the person files with the pardons and paroles division [board] a written request for that notification. After receiving such a written request, the pardons and paroles division [board] shall grant to the person all the privileges to which the person would be entitled had the person submitted a victim impact statement. Before a prisoner is released from the institutional division on parole or on the release of a prisoner on mandatory supervision, the pardons and paroles division [board] shall give notice of the release to any person entitled to notification of parole consideration for the prisoner because the person filed with the pardons and paroles division [board] a victim impact statement or a request for notification of a parole consideration.

(4) Except as necessary to comply with this section, the pardons and paroles division [board] or the institutional division may not disclose to any person the name or address of a victim or other person entitled to notice under this section unless the victim or that person approves the disclosure or the pardons and paroles division [board] or the department is ordered to disclose the information by a court of competent jurisdiction after the court determines that there is good cause for disclosure.

(5) Before ordering the parole of any prisoner, a parole panel [the board] may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. The pardons and paroles division [board] shall develop and implement standard parole guidelines that shall be the basic criteria on which parole decisions are made. The parole guidelines shall be developed according to an acceptable research method and shall be based on the seriousness of the offense and the likelihood of favorable parole outcome. The pardons and paroles division [board] shall review the parole guidelines periodically and make any revisions considered necessary by virtue of statistical analysis of board actions using acceptable research methodology. A prisoner shall be placed on parole only when arrangements have been made for his employment or for his maintenance and care and when the parole panel [board] believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the pardons and paroles division [state] and shall be amenable to the conditions of supervision ordered under this article [by the board].

(g) The Texas Board of Criminal Justice may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole and mandatory supervision, the conduct of parole and mandatory supervision hearings, or conditions to be imposed upon parolees

and persons released to mandatory supervision. Each person to be released on parole shall be furnished a ~~written statement and~~ contract setting forth in clear and intelligible language the conditions and rules of parole. The parole panel ~~[board]~~ may include as a condition of parole or mandatory supervision any condition that a court may impose on a probationer under Article 42.12 of this code, including the condition that the person released submit to testing for controlled substances or submit to electronic monitoring if the parole panel ~~[board]~~ determines that absent testing for controlled substances or participation in an electronic monitoring program the person would not be released on parole. Acceptance, signing, and execution of the contract by the inmate to be paroled shall be a precondition to release on parole. Persons released on mandatory supervision shall be furnished a written statement setting forth in clear and intelligible language the conditions and rules of mandatory supervision. The parole panel ~~[board]~~ may also require as a condition of parole or release to mandatory supervision that the person make payments in satisfaction of damages the person is liable for under Article 6184p, Revised Statutes.

(h) It shall be the duty of the board at least 10 days before ordering the parole of any prisoner or at least 10 days after recommending the granting of executive clemency by the governor to notify the sheriff, the prosecuting attorney, and the district judge in the county where such person was convicted and the county to which the prisoner is released that such parole or clemency is being considered by the board or by the governor. For any case in which there was a change of venue, the board shall notify those same officials in the county in which the prosecution was originated if, no later than 30 days after the date on which the defendant was sentenced, those officials request in writing that the board give them notice under this section of any future release of the prisoner. Additionally, no later than the 10th day after the parole panel ~~[board]~~ orders the transfer of a prisoner to a halfway house under this article, the parole panel ~~[board]~~ shall notify the sheriff of the county in which the prisoner was convicted and shall notify the sheriff of the county in which the halfway house is located and the attorney who represents the state in the prosecution of felonies in that county. The notice must state the prisoner's name, the county in which the prisoner was convicted, and the offense for which the prisoner was convicted.

(i) As an element of the pardons and paroles division's ~~[board's]~~ halfway house program, the pardons and paroles division ~~[board]~~, in conjunction with the institutional division, shall utilize halfway houses for the purpose of diverting from housing in regular units of the institutional division suitable low-risk prisoners and other prisoners who would benefit from a smoother transition from incarceration to supervised release ~~[conditional freedom]~~. To accomplish this purpose, a parole panel ~~[the board]~~, after reviewing all available pertinent information, may designate a presumptive parole date for any inmate who (i) is not serving a sentence for an offense listed in Subdivision (1) of Subsection (a) of Section 3g of Article 42.12 of this code and whose judgment does not contain an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article; and (ii) has never been convicted of an offense listed in Subdivision (1) of Subsection (a) of Section 3g of that article and has never had a conviction, the judgment for which contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article. The presumptive parole date may not be a date which is earlier than the prisoner's initial parole eligibility date, as calculated or projected pursuant to Subsection (b) of this section. Before transferring a prisoner to a halfway house, the pardons and paroles division ~~[board]~~ shall send to the director of the halfway house all information relating to the prisoner that the pardons and paroles division ~~[board]~~ feels will aid the halfway house in helping the prisoner make a transition from prison to supervised release ~~[community life]~~. If a prisoner for whom a presumptive parole

date has been established is transferred into a preparole residence in a halfway house pursuant to the terms of Subchapter A, Chapter 498, Government Code [Article 6166x-4, Revised Statutes], the pardons and paroles division [board] is responsible for his supervision. A parole panel [the board] may rescind or postpone a previously established presumptive parole date on the basis of reports from agents of the pardons and paroles division [board] responsible for supervision or agents of the institutional division [department of corrections] acting in the case. If a preparolee [prisoner] transferred to preparole status has satisfactorily served his sentence in the halfway house to which he is assigned from the date of transfer to the presumptive parole date, without rescission or postponement of the date, the parole panel [board] shall order his release to parole and issue an appropriate certificate of release. The person [prisoner] is subject to the provisions of this article governing release on parole.

(j) In addition to other conditions of parole and release on mandatory supervision imposed under this section, a parole panel [the board] shall require a prisoner released on parole or mandatory supervision to pay a parole supervision fee of \$10 to the pardons and paroles division [board] for each month during which the prisoner is under parole supervision. The fee applies to a prisoner released in another state who is required as a term of his release to report to a parole officer or supervisor in this state for parole supervision. On the request of the prisoner, a parole panel [the board] may allow the prisoner to defer payments under this subsection. The prisoner remains responsible for payment of the fee and must make the deferred payment not later than two years after the date on which the payment becomes due. The board of the Texas Department of Criminal Justice shall establish rules relating to the method of payment required of the person on parole or mandatory supervision. Fees collected under this subsection by the pardons and paroles division [board] shall be remitted to the comptroller of public accounts, who shall deposit the fees in the general revenue fund of the state treasury. In a parole or mandatory supervision revocation hearing under Section 14 of this article at which it is alleged only that the person failed to make a payment under this subsection, the inability of the person to pay as ordered by a parole panel [the board] is an affirmative defense to revocation, which the person must prove by a preponderance of the evidence.

(k) [~~Sec. 8A. ATTAINMENT OF EDUCATIONAL SKILL.~~] In addition to other conditions imposed by a parole panel [the board] under this article, the parole panel [board] shall require as a condition of parole or release to mandatory supervision that the prisoner demonstrate to the parole panel [board] whether the prisoner has an educational skill level that is equal to or greater than the average skill level of students who have completed the sixth grade in public schools in this state. If the parole panel [board] determines that the person has not attained that skill level, the parole panel [board] shall require as a condition of parole or release to mandatory supervision that the prisoner attain that level of educational skill, unless the parole panel [board] determines that the person lacks the intellectual capacity or the learning ability to ever achieve that level of skill.

(l) [~~Sec. 8A. DRUG TESTING.~~ (a)] In addition to other conditions imposed by a parole panel [the board] under this article, the parole panel [board] shall require as a condition of parole or release to mandatory supervision, on evidence of the presence of a controlled substance in the defendant's body, or on any evidence the defendant has used a controlled substance, or on evidence that controlled substance use is related to the offense for which the defendant was convicted, that the defendant submit to testing for controlled substances.

(b) The Texas Board of Criminal Justice [board] by rule shall adopt procedures for the administration of tests required by this subsection [section].

Sec. 9. DUTY TO PROVIDE [~~BOARD WITH~~] INFORMATION. It shall be the duty of any judge, district attorney, county attorney, police officer, or other

public official of the state having information with reference to any prisoner eligible for parole to send in writing such information as may be in his possession or under his control to the pardons and paroles division [board], upon request of any member of the Board of Pardons and Paroles or employee of the pardons and paroles division [thereof].

Sec. 10. ACCESS TO PRISONERS. It shall be the duty of the institutional division to grant to the members of the board and employees of the pardons and paroles division [or its properly accredited representatives] access at all reasonable times to any prisoner, to provide for the members and employees [board] or such representatives facilities for communicating with and observing such prisoner, and to furnish to the members and employees [board] such reports as the members and employees [board] shall require concerning the conduct and character of any prisoner in their custody and any other facts deemed by a parole panel [the board] pertinent in determining whether such prisoner shall be paroled.

Sec. 11. INFORMATION AND ARGUMENTS [~~TO BOARD~~]. (a) The Texas Board of Criminal Justice shall adopt rules as to the submission and presentation of information and arguments to parole panels and the pardons and paroles [~~the Board of Pardons and Paroles~~] division for and in behalf of any person within the jurisdiction of a panel or the division [that board].

(b) All persons presenting information or arguments to a panel or the [~~Board of Pardons and Paroles~~] division shall submit therewith an affidavit stating whether any fee has been paid or is to be paid for their services in the case, the amount of such fee, if any, and by whom such fee is paid or to be paid.

Sec. 12. SUBPOENAS. Parole [~~The members of the board, acting in parole~~] panels[~~shall~~] have power to issue subpoenas requiring the attendance of such witnesses and the production of such records, books, papers, and documents as it may deem necessary for investigation of the case of any person before it. Subpoenas may be signed and oaths administered by any member of the board. Subpoenas so issued may be served by a sheriff, a constable, a police, parole, or probation officer, or another law enforcement officer in the same manner as similar process in courts of record having original jurisdiction of criminal actions. Any person who testifies falsely or fails to appear when subpoenaed or fails or refuses to produce such material pursuant to the subpoena shall be subject to the same orders and penalties to which a person before a court is subject. Any courts of record having original jurisdiction of criminal actions, upon application of the board, may in their discretion compel the attendance of witnesses, the production of such material, and the giving of testimony before the board, by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before such courts of record having original jurisdiction of criminal actions.

Sec. 13. WARRANTS. (a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released although not eligible for release, a resident released to a preparole or work furlough program, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which he was paroled, released, or pardoned may be issued by the members of [~~the board acting in~~] parole panels in cases of parole or mandatory supervision, or by the board on order by the governor in other cases, when there is reason to believe that he has been released although not eligible for release, committed an offense against the laws of this state or of the United States, violated a condition of his parole, mandatory supervision, or conditional pardon, or when the circumstances indicate that he poses a danger to society that warrants his immediate return to incarceration. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and detain and house the prisoner until the pardons and paroles division orders the return of the prisoner [him] to the institution from which he was released. Pending hearing, as hereinafter

provided, upon any charge of parole violation, ineligible release, or violation of the conditions of mandatory supervision, a prisoner returned to custody shall remain incarcerated. If a parole panel is otherwise authorized to issue a warrant under this subsection, the pardons and paroles division [board] may instead issue to a prisoner a summons requiring the prisoner to appear ~~[before the board or its designee]~~ for a hearing under Section 14 of this article. The summons must state the time, place, date, and purpose of the hearing.

(b) A prisoner for whose return a warrant has been issued ~~[by the board]~~ shall, after the issuance of such warrant, be deemed a fugitive from justice and if it shall appear that he has violated the conditions or provisions of his mandatory supervision or parole, the time from the issuing of such warrant to the date of his arrest shall not be counted as any part of the time to be served under his sentence. The law now in effect concerning the right of the State of Texas to extradite persons and return fugitives from justice and Article 42.11 of this code concerning the waiver of all legal requirements to obtain extradition of fugitives from justice from other states to this state shall not be impaired by this article and shall remain in full force and effect.

Sec. 14. HEARINGS; SANCTIONS. (a) Whenever a prisoner or a person granted a conditional pardon is accused of a violation of his parole, mandatory supervision, or conditional pardon, on information and complaint by a law enforcement officer or parole officer, or is arrested after an ineligible release, he shall be entitled to be heard on such charges before a parole panel or a designee of the division under such rules as the Texas Board of Criminal Justice may adopt; provided, however, said hearing shall be a public hearing and shall be held within 70 days of the date of arrest under a warrant issued by a parole panel ~~[the Board of Pardons and Paroles division]~~ or the governor and at a time and place set by that parole panel or designee. The panel or designee may hold the hearing at a date later than the date otherwise required by this section if it determines a delay is necessary to assure due process for the person. If a parole panel or designee determines that a parolee, mandatory supervisee, or person granted a conditional pardon has been convicted in a court of competent jurisdiction of a felony offense committed while an administrative releasee and has been sentenced by the court to a term of incarceration in a penal institution, the determination is to be considered a sufficient hearing to revoke the parole or mandatory supervision or recommend to the governor revocation of a conditional pardon without further hearing, except that the parole panel or designee shall conduct a hearing to consider mitigating circumstances if requested by the parolee, mandatory supervisee, or person granted a conditional pardon. When the parole panel or designee has heard the facts, it may recommend to the governor that the conditional pardon be continued, revoked, or modified, or it may continue, revoke, or modify the parole or mandatory supervision, in any manner warranted by the evidence. The Texas Board of Criminal Justice shall develop and implement a system of sanctions that may be imposed by the pardons and paroles ~~[Board of Pardons and Paroles]~~ division on a person whose conditional pardon or release on parole or mandatory supervision is continued or modified. The parole panel or designee must make its recommendation or decision no later than the 30th day after the date ~~[of]~~ the hearing is concluded. When a person's parole, mandatory supervision, or conditional pardon is revoked, that person may be required to serve the portion remaining of the sentence on which he was released, such portion remaining to be calculated without credit for the time from the date of his release to the date of revocation. When a warrant is issued charging a violation of release conditions, the sentence time credit may be suspended until a determination is made in such case and such suspended time credit may be reinstated should such parole, mandatory supervision, or conditional pardon be continued.

(b) The pardons and paroles division [~~Texas Board of Criminal Justice~~] shall develop and implement a training program for designees of the [~~Board of Pardons and Paroles~~] division who conduct hearings under this section. The training program must assist the designees in understanding issues relating to the revocation process.

Sec. 15. COMPLETION OF PAROLE PERIOD. (a) In order to complete the parole period, a parolee shall be required to serve out the whole term for which he was sentenced, subject to the deduction of the time he had served prior to his parole. The time on parole shall be calculated as calendar time. This provision, however, shall not be construed so as to interfere with the constitutional power conferred upon the governor to grant pardons and to commute sentences.

(b) A parole panel [~~The board~~] may allow a person released on parole or mandatory supervision to serve the remainder of the person's sentence without supervision and without being required to report if:

(1) the person has been under the supervision for not less than one-half of the time that remained on the person's sentence when the person was released from imprisonment and during the period of supervision the person's parole or release on mandatory supervision has not been revoked; and

(2) the parole panel [~~board~~] determines that:

(A) the person has made a good faith effort to comply with any restitution order imposed on the person by a court of competent jurisdiction; and

(B) allowing the person to serve the remainder of the person's sentence without supervision and reporting is in the best interest of society.

(c) A parole panel [~~The board~~] may require a person released from supervision and reporting under Subsection (b) of this section to resubmit to supervision and resume reporting at any time, and for any reason.

(d) This section may not be construed as interfering with the constitutional power of the governor to grant pardons and commute sentences.

Sec. 16. REPORTS TO GOVERNOR. On request of the governor, the members of the board shall investigate and report to the governor with respect to any person being considered by the governor for pardon, commutation of sentence, reprieve, remission of fine, or forfeiture and make recommendations thereon. The provisions of this article may not be construed as preventing or limiting the governor's exercise of powers vested in him by the constitution of this state.

Sec. 17. SUPERVISION RESPONSIBILITIES. (a) The pardons and paroles division [~~board~~] shall have general responsibility for the investigation and supervision of all prisoners released on parole and to mandatory supervision.

(b) The Texas Board of Criminal Justice shall collect information on recidivism of releasees under the supervision of the pardons and paroles [~~Board of Pardons and Paroles~~] division and use the information collected to evaluate operations.

Sec. 18. CONFIDENTIAL INFORMATION. All information obtained and maintained in connection with inmates of the institutional division subject to parole, release to mandatory supervision, or executive clemency, or individuals who may be on mandatory supervision or parole and under the supervision of the pardons and paroles division [~~board~~], or persons directly identified in any proposed plan of release for a prisoner, including victim impact statements and inmates' arrest records, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the governor and the members of the board upon request. It is further provided that statistical and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory supervision, and data recorded in

connection with parole and mandatory supervision services, shall be subject to public inspection at any reasonable time.

Sec. 19. PAROLE OFFICERS. (a) It is expressly provided that no person may be employed as a parole officer or supervisor or be responsible for the investigation or supervision of persons on parole or mandatory supervision, unless he meets the following qualifications together with any other qualifications that may be specified by the director: four years of successfully completed education in an accredited college or university and two years of full-time paid employment in responsible correctional work with adults or juveniles or in a related field. Additional experience in the above categories may be substituted year for year for the required college education, with a maximum substitution for two years. This subsection applies only to persons employed as parole officers or supervisors before or on September 1, 1990.

(b) Any parole officer or supervisor may, with the approval of the director, be designated as a probation officer by the judge of a court of the state having original jurisdiction of criminal actions. Any proportional part of the salary paid to a parole officer or supervisor so designated, however, in compensation for his service as a probation officer, shall be only with the prior written approval of the director, and all such proportional salary payments shall be periodically reported to the governor and the legislature by the director.

(c) No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas Ranger, state highway patrolman, or similar law enforcement officer or as a prosecuting attorney shall act as a parole officer or be responsible for the supervision of persons on parole or released to mandatory supervision.

(d) Any parole officer or supervisor, upon request of the governor or order of the director, shall be responsible for supervising persons placed on conditional pardon or furlough.

(e) Not later than September 1, 1990, the director shall establish qualifications for parole officers and supervisors that are the same as the qualifications for probation officers imposed by Section 5, Article 42.131, of this code. A person may not begin employment as a parole officer or supervisor after September 1, 1990, unless the person meets the qualifications established by the director under this subsection.

Sec. 20. INAPPLICABLE TO JUVENILES. The provisions of this article shall not apply to parole from institutions for juveniles or to temporary furloughs granted to an inmate by the institutional division under Section 500.006, Government Code [Article 6184n, Revised Statutes].

Sec. 21. LITERACY. The Texas Board of Criminal Justice and the Central Education Agency shall adopt a memorandum of understanding that establishes the respective responsibilities of the board and the agency in implementing a continuing education program to increase the literacy of inmates released from the institutional division on parole and mandatory supervision. The Texas Board of Criminal Justice and the agency shall coordinate the development of the memorandum of understanding and each by rule shall adopt the memorandum.

Sec. 22. ~~[CONTRACTS FOR SUPERVISION. The board shall request proposals and shall award contracts to departments to provide parole services to persons released to the supervision of the board. Not later than January 1, 1991, the board shall enter into contracts under this section that provide for the supervision of at least five percent of all persons who would otherwise be supervised by the board.]~~

~~[Sec. 23.] ELECTRONIC MONITORING. In order to establish and maintain electronic monitoring programs as authorized by this article, the pardons and paroles division [board] may fund electronic monitoring programs in parole~~

offices, develop standards for the operation of electronic monitoring programs in parole offices, and provide funds for the purchase, lease, or maintenance of electronic monitoring equipment. In determining whether electronic monitoring equipment should be leased or purchased, the pardons and paroles division [board] shall take into consideration the rate at which technological change makes electronic monitoring equipment obsolete.

Sec. 23 [24]. SPECIAL PROGRAMS. (a) The pardons and paroles division [Texas Board of Criminal Justice], if funds are appropriated to the division [board] for that purpose, may enter into contracts for the provision of certain services to be provided to releasees under the supervision of the division [board], including the following:

(1) services to releasees who have a history of mental impairment or mental retardation;

(2) services to releasees who have a history of substance abuse; or

(3) services to releasees who have a history of sexual offenses.

(b) The pardons and paroles division [board] shall seek funding for the contracts [from the legislature] as a priority item.

Sec. 24 [25]. INTENSIVE SUPERVISION. The pardons and paroles division [board] shall establish a program to provide intensive supervision to inmates released under the provisions of Subchapter B, Chapter 498, Government Code [Article 6184c, Revised Statutes], and other inmates determined by parole panels [the board] to require intensive supervision. The Texas Board of Criminal Justice shall adopt rules that establish standards for determining which inmates require intensive supervision. The program must provide the highest level of supervision provided by the pardons and paroles division [board].

Sec. 25 [26]. COMMUNITY-BASED FACILITIES. (a) The pardons and paroles division [board] may establish and operate or contract for the operation of community-based intermediate sanction facilities to house, maintain, and provide services for:

(1) persons required by a parole panel [the board] as a condition of parole or mandatory supervision under Section 8(g) of this article to serve a period in a community-based facility; and

(2) persons whose release on parole or mandatory supervision has been continued or modified under Section 14(a) of this article, and on whom sanctions have been imposed under that section.

(b) The purpose of a facility authorized by this section is to provide housing, supervision, counseling, personal, social, and work adjustment training, and other programs for persons described by Subsection (a) of this section.

(c) The pardons and paroles division [board] may not establish, enter into a contract for a community-based facility, or change the use of or significantly increase the capacity of a community-based facility unless the pardons and paroles division [board] provides notice of the proposed action and a hearing on the issues in the same manner required of the community justice assistance division under Section 10, Article 42.13 [42.13], of this code before the division takes an action under Section 5 of that article. This subsection [section] applies to any residential facility that the pardons and paroles division [board] establishes or contracts for under this article, under Subchapter C, Chapter 496, Government Code, or under Subchapter A, Chapter 498, Government Code [Chapter 493, Acts of the 61st Legislature, Regular Session, 1969 (Article 6166x-3, Vernon's Texas Civil Statutes); or under Article 6166x-4, Revised Statutes].

(d) The Texas Board of Criminal Justice shall adopt rules necessary for the management of community-based facilities authorized by this section.

(e) The pardons and paroles division [board] may charge a reasonable fee to a person housed in a facility authorized by this section for the cost of housing, board,

and that part of the administrative costs of the facility that may be properly allocable to the person. A fee imposed under this subsection may not exceed the actual costs to the pardons and paroles division [board] for services to the person charged for the services. The pardons and paroles division [board] may not deny placement in a community-based facility to a person because that person is unable to pay a fee authorized by this section.

(f) A parole panel or a designee of the pardons and paroles division [board] may grant a limited release to a person placed in a community-based facility so that the person may maintain or seek employment, education or training courses, or housing after release from the facility.

(g) The pardons and paroles division [board] may enter into a contract with a public or private vendor to provide or supplement housing, board, or supervision for persons placed in community-based facilities. A person housed or supervised in a facility operated by a vendor under a contract is subject to the same provisions of law as if the housing or supervision were provided directly by the pardons and paroles division [board].

Sec. 26 [36]. **CONTRACTS FOR LEASE OF FEDERAL FACILITIES.** (a) The pardons and paroles division [board] may contract with the federal government for the lease of any military base or other federal facility that is not being used by the federal government.

(b) A facility leased under this section may be used by the pardons and paroles division [board] for the purpose of housing releasees in the custody of the pardons and paroles division [board].

(c) The pardons and paroles division [board] may not enter into a contract under this section unless funds have been appropriated specifically for the purpose of making payments on contracts authorized under this section.

(d) The pardons and paroles division [board] shall attempt to enter into contracts authorized by this section that will provide the pardons and paroles division [board] with facilities located in the various parts of the state.

SECTION 20. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.012 to read as follows:

Art. 102.012. FEES FOR PRETRIAL INTERVENTION PROGRAMS. A person in a pretrial intervention program established under Section 11, Article 42.131 of this code, may be assessed a fee that equals the actual cost to a community supervision and corrections department, not to exceed \$500, for supervision of the defendant by the department or programs provided to the defendant by the department as part of the pretrial intervention program.

SECTION 21. Article 103.004, Code of Criminal Procedure, is amended to read as follows:

Art. 103.004. **DISPOSITION OF COLLECTED MONEY.** (a) An officer who collects recognizances, bail bonds, fines, forfeitures, judgments, jury fees, and other obligations recovered in the name of the state under any provision of this title shall immediately pay the money to the county treasurer of the county for which the money was collected.

(b) The custodian of the county treasury shall deposit money received from fees imposed under Article 102.012 of this code in the special fund of the county treasury for the community supervision and corrections department serving the county.

SECTION 22. The article heading of Article 4413(49a), Revised Statutes, is amended to read as follows:

Art. 4413(49a). **TEXAS [INTERAGENCY] COUNCIL ON OFFENDERS WITH MENTAL IMPAIRMENTS**

SECTION 23. Section 2, Article 4413(49a), Revised Statutes, is amended to read as follows:

Sec. 2. ESTABLISHMENT OF COUNCIL. The Texas [Interagency] Council on [Mentally Retarded, Developmentally Disabled, and Mentally Ill] Offenders With Mental Impairments is established.

SECTION 24. Section 3(a), Article 4413(49a), Revised Statutes, is amended to read as follows:

(a) The council is composed of 28 members. The governor shall appoint nine at-large members to serve on the council. The executive head of each of the following agencies, divisions of agencies, or associations, or that person's designated representative, shall serve as members of the council:

(1) the institutional division of the Texas Department of Criminal Justice [Texas Department of Corrections];

(2) the Texas Department of Mental Health and Mental Retardation;

(3) the pardons and paroles division of the Texas Department of Criminal Justice [Board of Pardons and Paroles];

(4) the community justice assistance division [Texas Adult Probation Commission];

(5) the Texas Juvenile Probation Commission;

(6) the Texas Youth Commission;

(7) the Texas Rehabilitation Commission;

(8) the Central Education Agency;

(9) the Criminal Justice Policy Council;

(10) the Mental Health Association in Texas;

(11) the Texas Commission on Alcohol and Drug Abuse;

(12) the Commission on Law Enforcement Officer Standards and Education;

(13) the Texas Council of Community Mental Health and Mental Retardation Centers;

(14) the Commission on Jail Standards;

(15) the Texas Planning Council for Developmental Disabilities;

(16) the Texas Association for Retarded Citizens;

(17) the Texas Alliance for the Mentally Ill;

(18) the Parent Association for the Retarded of Texas, Inc.; and

(19) the Texas Department of Human Services.

SECTION 25. Section 9, Article 4413(49a), Revised Statutes, is amended to read as follows:

Sec. 9. BIENNIAL [ANNUAL] REPORT. Not later than February 1 of each odd-numbered year, the council shall file a report with the governor, lieutenant governor, and speaker of the house of representatives detailing the activities of the council during the preceding biennium [year]. The report must include an evaluation of any demonstration project undertaken by the council, an evaluation of the council's progress toward developing a plan for meeting the treatment, rehabilitative, and educational needs of mentally retarded, developmentally disabled, and mentally ill offenders, recommendations of the council made in accordance with Subdivision (5) of Section 7 of this Act, and any other recommendations that the council considers appropriate.

SECTION 26. Section 12, Article 4413(49a), Revised Statutes, is amended to read as follows:

Sec. 12. APPLICATION OF SUNSET ACT. The Texas [Interagency] Council on [Mentally Retarded, Developmentally Disabled, and Mentally Ill] Offenders With Mental Impairments is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the council is abolished, and this Act expires September 1, 1999.

SECTION 27. Article 42.036(f), Code of Criminal Procedure, is amended to read as follows:

(f) A defendant is considered to have served one day in jail for each eight hours [or fraction of eight hours] of community service performed under this section.

SECTION 28. Chapter 60, Code of Criminal Procedure, is amended to read as follows:

CHAPTER 60. CRIMINAL HISTORY RECORD SYSTEM

Art. 60.01. DEFINITIONS. In this chapter:

(1) "Administration of criminal justice" means the performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of an offender. The term includes criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(2) "Appeal" means the review of a decision of a lower court by a superior court other than by collateral attack. ["Arrest charge code" means a numeric code assigned to each offense category to be designated by the department.

](2) "Centralized criminal history record information system" means the enhanced computerized criminal history system managed by the Texas Department of Criminal Justice.]

(3) "Computerized criminal history system" means the data base containing arrest, disposition, and other criminal history maintained by the Department of Public Safety.

(4) "Corrections tracking system" means the data base maintained by the Texas Department of Criminal Justice on all offenders under its supervision.

(5) "Council" means the Criminal Justice Policy Council.

(6) "Criminal justice agency" means a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and allocates a substantial part of its annual budget to the administration of criminal justice.

(7) "Criminal justice information system" means the computerized criminal history system and the corrections tracking system.

(8) [(5)] "Disposition" means an action that results in the termination, transfer to another jurisdiction, or indeterminate suspension of the prosecution of a criminal charge.

(9) [(6)] "Incident number" means a unique number assigned to a specific person during a specific arrest.

(10) "Offender" means any person who is assigned an incident number.

(11) "Offense code" means a numeric code for each offense category.

(12) "Rejected case" means:

(A) a charge that, after the arrest of the offender, the prosecutor declines to include in an information or present to a grand jury; or

(B) an information or indictment that, after the arrest of the offender, the prosecutor refuses to prosecute.

(13) [(7)] "Release" means the termination of jurisdiction over an individual by the criminal justice system.

(14) [(8)] "State identification number" means a unique number assigned by the Department of Public Safety [department] to each person whose name appears in the criminal justice [centralized criminal history record] information system.

(15) [(9)] "Uniform incident fingerprint card" means a multiple part form containing a unique incident number with space for information relating to the charge or charges for which a person is being arrested, the person's fingerprints, and other information relevant to the arrest.

Art. 60.02. INFORMATION SYSTEMS. (a) The Texas Department of Criminal Justice is responsible for recording data and establishing and maintaining

a data base for a corrections tracking ~~[centralized criminal history record information]~~ system. ~~[The council shall provide advice for the timely and effective implementation of this article.]~~

(b) The Department of Public Safety is responsible~~[-with cooperation from the council;]~~ for recording data and maintaining a data base for a computerized criminal history system that serves as the record creation point for criminal history information maintained by the state.

(c) The criminal justice ~~[computerized criminal history system and the centralized criminal history record]~~ information system shall be established and maintained to supply the state with a system ~~[systems]~~:

(1) that provides ~~[provide]~~ law enforcement officers with an accurate criminal history record depository;

(2) that provides ~~[provide]~~ criminal justice ~~[system]~~ agencies with an accurate criminal history record depository for operational decision making;

(3) from which accurate criminal justice system modeling can be conducted;

(4) that improves ~~[improve]~~ the quality of data used to conduct impact analyses of proposed legislative changes in the criminal justice system; and

(5) that improves ~~[improve]~~ the ability of interested parties to analyze the functioning of the criminal justice system.

(d) The data bases must contain the information required by this chapter.

(e) The Department of Public Safety shall designate the offense codes and has the sole responsibility for designating the state identification number for each person whose name appears in the criminal justice information system ~~[each data base]~~.

(f) The Department of Public Safety and the Texas Department of Criminal Justice shall implement a system to link the computerized criminal history system and the corrections tracking system ~~[is responsible for the operation and maintenance of the centralized criminal history record information system]~~. Data received by the Texas Department of Criminal Justice that is required by the ~~[department for the computerized criminal history record information system shall be reported to the]~~ Department of Public Safety for the preparation of a criminal history record shall be made available to the computerized criminal history system not later than the seventh day after the date on which the Texas Department of Criminal Justice receives the request for the data from the Department of Public Safety ~~[data]~~.

(g) The Department of Public Safety is responsible for the operation of the computerized criminal history system and shall develop the necessary interfaces in the system to accommodate inquiries from a statewide automated fingerprint identification ~~[information]~~ system, if such a system is implemented by the department.

(h) Whenever possible, the reporting of information relating to dispositions and subsequent offender processing data shall be conducted electronically.

(i) The Department of Public Safety and the Texas Department of Criminal Justice, with advice from the council and the Department of Information Resources, shall develop biennial plans to improve the reporting and accuracy of the criminal justice ~~[computerized criminal history system and the centralized criminal history record]~~ information system and to develop and maintain monitoring systems capable of identifying missing information.

(j) At least once during each five-year period~~[- the Texas Department of Criminal Justice, with advice from]~~ the council~~[-]~~ shall coordinate an examination of ~~[examine]~~ the records and operations of the criminal justice information ~~[centralized criminal history record information system and of the computerized criminal history]~~ system to ensure the accuracy and completeness of information in the system and to ensure the promptness of information reporting ~~[systems]~~. The

state auditor, or other appropriate entity selected by the council, shall conduct the examination with the cooperation of the council, the Department of Public Safety, and the Texas Department of Criminal Justice. The Department of Public Safety, the council, and the Texas Department of Criminal Justice may examine the [public] records of the agencies required to report information to the Department of Public Safety or the Texas Department of Criminal Justice. The examining entity [Texas Department of Criminal Justice] shall submit to the legislature and the council a report that summarizes the findings of each examination and contains recommendations for improving the system [systems].

(k) Not later than January 1, 1991, the council, in cooperation with the Department of Public Safety, the Texas Department of Criminal Justice, and county representatives who are selected by the council, shall:

(1) conduct a study of telecommunications networks used by law enforcement and corrections agencies;

(2) determine the feasibility and estimated cost of using networks described by the study conducted under Subdivision (1) of this subsection to transmit data required by this article between counties and state agencies, and between state agencies; and

(3) prepare recommendations for implementing a system of electronic data reporting.

Art. 60.03. INTERAGENCY COOPERATION; CONFIDENTIALITY. (a) Criminal justice agencies and the council are entitled to access to the data bases of the Department of Public Safety and the Texas Department of Criminal Justice in accordance with applicable state or federal law or regulations. [Each agency listed in Article 60.02(a) of this code shall provide access to the agency's criminal history record information system to other criminal justice agencies, including the council.] The access granted by this subsection does not grant an agency or the council the right to add, delete, or alter data maintained by another agency.

(b) The council may submit to the Department of Public Safety and the Texas Department of Criminal Justice an annual request for a data file containing data elements from the departments' systems. The Department of Public Safety and the Texas Department of Criminal Justice shall provide the council with that data file for the period requested. If the council submits data file requests other than the annual data file request, the director of the agency maintaining the requested records must approve the request.

(c) Neither a criminal justice agency nor the council may disclose to the public information in an individual's criminal history record if the record is protected by state or federal law or regulation.

Art. 60.04. COMPATIBILITY OF DATA. (a) Data supplied to the criminal justice information system [computerized criminal history and the centralized criminal history record information systems] must be compatible with the system [systems] and must contain both incident numbers and state identification numbers.

(b) A discrete submission of information under any article of this chapter must contain, in conjunction with information required, the defendant's name and state identification number.

Art. 60.05. TYPES OF INFORMATION COLLECTED. The criminal justice information system [(a) Together the computerized criminal history and the centralized criminal history record information systems] must contain but is [are] not limited to the following types of information for each arrest for a felony or a misdemeanor or not punishable by fine only:

- (1) information relating to offenders;
- (2) information relating to arrests;
- (3) information relating to prosecutions;

(4) information relating to the disposition of cases by courts;
 (5) information relating to sentencing; and
 (6) information relating to the handling of offenders received by a correctional agency, facility, or other institution.

Art. 60.051. INFORMATION IN COMPUTERIZED CRIMINAL HISTORY SYSTEM. (a) ~~[(b)]~~ Information in the computerized criminal history system relating to an offender must include:

(1) the offender's name, including other names by which the offender is known;

- (2) the offender's date of birth;
- (3) the offender's sex; and
- (4) the offender's state identification number.

(b) ~~[(c)]~~ Information in the computerized criminal history system relating to an arrest must include:

- (1) the name of the offender;
- (2) ~~[(and)]~~ the offender's state identification number~~[-if known]~~;
- (3) ~~[(2)]~~ ~~the name of~~ the arresting agency;
- (4) ~~[(3)]~~ the arrest charge by offense ~~[name, arrest charge]~~ code~~[-]~~ and incident number;
- (5) whether the arrest charge is a misdemeanor or felony
- ~~[(4)]~~ the level of the arrest charge or degree of offense charged;
- (6) ~~[(5)]~~ the date of the arrest;
- (7) ~~[(6)]~~ the exact disposition of the case by a law enforcement agency following the arrest; and
- (8) ~~[(7)]~~ the date of disposition of the case by the law enforcement agency.

(c) ~~[(d)]~~ Information in the computerized criminal history system relating to a prosecution must include:

- (1) each charged offense by offense ~~[name, arrest charge]~~ code~~[-]~~ and incident number;
- (2) the level of the offense charged or the degree of the offense charged for each offense in Subdivision (1) of this subsection; and
- (3) for a rejected case, the date of rejection, offense code, and incident number, and whether the rejection is a result of a successful pretrial diversion program ~~[if the case was disposed of by the prosecutor, the nature and date of the disposition and each charged offense disposed of, by name, arrest charge code, and incident number].~~

(d) ~~[(e)]~~ Information in the computerized criminal history system relating to the disposition of a case ~~that was not rejected~~ must include:

- (1) the final pleading to each charged offense and the level of the offense;
- (2) a listing of each charged offense ~~[offenses]~~ disposed of by the court and:

- (A) the date of disposition; ~~and~~
- (B) the offense code for the disposed charge ~~[a listing of each offense and the arrest charge code, name,] and incident number; and~~
- (C) the type of disposition; and

- (3) for a conviction that is appealed the final court decision and the final disposition of the offender on appeal ~~[a listing of offenses for which the defendant was convicted by the arrest charge code, name, and incident number; and~~
- ~~[(4)]~~ the date of conviction].

(e) ~~[(f)]~~ Information in the computerized criminal history system relating to sentencing must include for each sentence:

- (1) the sentencing date;
- (2) the sentence for each offense by offense [name, arrest charge] code[;] and incident number;
- (3) if the offender [defendant] was sentenced to confinement [imprisonment]:
 - (A) the agency that receives custody of the offender [place of imprisonment];
 - (B) the length of sentence for each offense; and
 - (C) if multiple sentences were ordered, whether they were ordered to be served consecutively or concurrently;
- (4) if the offender [defendant] was sentenced to a fine, the amount of the fine;
- (5) if a sentence to confinement or fine was ordered but was deferred, probated, suspended, or otherwise not imposed:
 - (A) the length of sentence or the amount of the fine that was deferred, probated, suspended, or otherwise not imposed; and
 - (B) the offender's name, offense code, and incident number; and
- (6) if a sentence other than fine or confinement [imprisonment] was ordered, a description of the sentence ordered;
- (6) if court costs were ordered and if so the amount of the costs; and
- (7) if fees, costs, and similar monetary penalties other than those described by Subdivisions (4) and (6) of this subsection were ordered, the amount for each].

Art. 60.052. INFORMATION IN CORRECTIONS TRACKING SYSTEM. (a) Information in the corrections tracking system relating to a sentence to be served under the jurisdiction of the Texas Department of Criminal Justice must include:

- (1) the offender's name;
 - (2) the offender's state identification number;
 - (3) the sentencing date;
 - (4) the sentence for each offense by offense code and incident number;
 - (5) if the offender was sentenced to imprisonment:
 - (A) the unit of imprisonment;
 - (B) the length of sentence for each offense; and
 - (C) if multiple sentences were ordered, whether they were ordered to be served consecutively or concurrently; and
 - (6) if a sentence other than a fine or imprisonment was ordered, a description of the sentence ordered.
- (b) [(g)] Sentencing information in the corrections tracking system must also include the following information about each deferred adjudication, probation, or other alternative to imprisonment [confinement] ordered:
- (1) each conviction for which sentence was ordered but was deferred, probated, suspended, or otherwise not imposed, by offense [name, arrest charge] code[;] and incident number; and
 - (2) [whether a portion of a fine or other cost was probated or otherwise not imposed and if so:
 - [(A)] for each offense, the amount of the fine that was not imposed; and
 - [(B)] for each offense, the amount of the court costs or other costs or fees that was not imposed; and
 - [(3)] if a sentence or portion of a sentence of imprisonment was deferred, probated, suspended, or otherwise not imposed:
 - (A) the offense, the sentence, and the amount of the sentence deferred, probated, suspended, or otherwise not imposed; [and]

(B) a statement of whether a return to confinement or other imprisonment was a condition of probation or an alternative sentence;

(C) the community supervision and corrections department exercising jurisdiction over the offender;

(D) the date the offender was received by a community supervision and corrections department;

(E) any program in which an offender is placed or has previously been placed and the level of supervision the offender is placed on while under the jurisdiction of a community supervision and corrections department;

(F) the date a program described by Paragraph (E) of this subdivision begins, the date the program ends, and whether the program was completed successfully;

(G) the date a level of supervision described by Paragraph (E) of this subdivision begins and the date the level of supervision ends;

(H) if the offender's probation is revoked:

(i) the reason for the revocation and the date of revocation by offense code and incident number; and

(ii) other current sentences of probation or other alternatives to confinement that have not been revoked, by offense code and incident number; and

(I) the date of the offender's release from the community supervision and corrections department.

(c) [(h)] Information in the corrections tracking system relating to the handling of offenders must include the following information about each imprisonment [institutionalization], confinement, or execution of an offender:

(1) the date of the imprisonment [institutionalization] or confinement;

(2) if the offender [defendant] was sentenced to death:

(A) [the scheduled date of execution;

(B) if the defendant was executed,] the date of execution; and

(B) [(C)] if the death sentence was commuted, the sentence to which the sentence of death was commuted and the date of commutation;

(3) the date the offender [defendant] was released from imprisonment [institutionalization] or confinement and whether the release was a discharge or a release on parole or mandatory supervision; [and]

(4) if the offender is released on parole or mandatory supervision:

(A) the offense for which the offender was convicted by offense [name, arrest charge] code[:]; and incident number;

(B) the date the offender was received by an office of the Board of Pardons and Paroles division;

(C) the county in which the offender resides while under supervision;

(D) any program in which an offender is placed or has previously been placed and the level of supervision the offender is placed on while under the jurisdiction of the Board of Pardons and Paroles division;

(E) the date a program described by Paragraph (D) of this subdivision begins, the date the program ends, and whether the program was completed successfully;

(F) the date a level of supervision described by Paragraph (D) of this subdivision begins and the date the level of supervision ends;

(G) if the offender's release status is revoked, the reason for the revocation and the date of revocation;

(H) the ~~[latest possible]~~ expiration date of the sentence; and

(I) the date of the offender's release from the Board of Pardons and Paroles division or the date on which the offender is granted clemency; and

(5) if the offender is released under Section 6(a), Article 42.12, of this code, the date of the offender's release.

~~[(C) the earliest possible expiration date of the sentence.~~

~~[(i) Data elements not needed for the functioning of the computerized criminal history system shall be maintained in the centralized criminal history record information system.]~~

Art. 60.06. DUTIES OF AGENCIES. (a) Each criminal justice agency shall:

(1) compile and maintain records needed for reporting data required by the Texas Department of Criminal Justice and the Department of Public Safety;

(2) transmit to the Texas Department of Criminal Justice and the Department of Public Safety, when and in the manner the Texas Department of Criminal Justice and the Department of Public Safety direct, all data required by the Texas Department of Criminal Justice and the Department of Public Safety, other than reports concerning the identity of a juvenile offender or the offender's parents;

(3) give the Department of Public Safety and the Texas Department of Criminal Justice or their [its] accredited agents [agent] access to the agency for the purpose of inspection to determine the completeness and accuracy of data reported; and

(4) cooperate with the Department of Public Safety and the Texas Department of Criminal Justice so that the Department of Public Safety and the Texas Department of Criminal Justice may properly perform their duties under this chapter.

(b) Information on an individual that consists of an identifiable description and notation of an arrest, detention, indictment, information, or other formal criminal charge and a disposition of the charge, including sentencing, correctional supervision, and release that is collected and compiled by the Department of Public Safety and the Texas Department of Criminal Justice from criminal justice agencies and maintained in a central location is not subject to public disclosure except as authorized by federal or state law or regulation.

(c) Subsection (b) of this section does not apply to a document maintained by a criminal justice agency that is the source of information collected by the Department of Public Safety or the Texas Department of Criminal Justice. Each criminal justice agency shall retain documents described by this subsection.

(d) An optical disk or other technology may be used instead of microfilm as a medium to store information if allowed by the applicable state laws or regulations relating to the archiving of state agency information.

(e) An official of an agency may not intentionally conceal or destroy any record with intent to violate this section.

~~(f) [(e)]~~ The duties imposed on a criminal justice agency under this article are also imposed on district court and county court clerks.

Art. 60.07. UNIFORM INCIDENT FINGERPRINT CARD. (a) The Department of Public Safety, in consultation with the council, shall design, print, and distribute to each law enforcement agency in the state a uniform incident fingerprint card.

(b) The incident card must:

(1) be serially numbered with an incident number in such a manner that the individual incident of arrest may be readily ascertained; and

(2) be a multiple part form that can be transmitted with the offender through the criminal justice process and that allows each agency to report required

data to the Department of Public Safety or the Texas Department of Criminal Justice [department or the council].

Art. 60.08. REPORTING. (a) The Department of Public Safety and the Texas Department of Criminal Justice shall, by rule, develop reporting procedures that ensure that the offender processing data is reported from the time an offender is arrested [a defendant is convicted] until the time an offender [a defendant] is released.

(b) The arresting agency shall prepare a uniform incident fingerprint card and initiate the reporting process [when an individual is arrested] for each offender charged with a felony or a misdemeanor not punishable by fine only.

(c) The clerk of the court exercising jurisdiction over a case shall report the disposition of the case to the Department of Public Safety [council].

(d) Except as otherwise required by applicable state laws or regulations, information [information] or data required by this chapter to be reported to the Texas Department of Criminal Justice or the Department of Public Safety shall be reported promptly but not later than the 30th day after the date on which the information or data is received by the agency [individual] responsible for reporting it except in the case of an arrest. An offender's arrest shall be reported to the [Texas Department of Criminal Justice or the] Department of Public Safety not later than the seventh day after the date of the arrest.

(e) A court that orders the release of an offender under Section 6(a), Article 42.12, of this code at a time when the offender is under a bench warrant and not physically imprisoned in the institutional division shall report the release to the institutional division of the Texas Department of Criminal Justice not later than the seventh day after the date of the release.

Art. 60.09. LOCAL DATA ADVISORY BOARDS. (a) The commissioners court of each county may create local data advisory boards to, among other duties:

(1) analyze the structure of local automated and manual data systems to identify redundant data entry and data storage;

(2) develop recommendations for the commissioners to improve the local data systems;

(3) develop recommendations, when appropriate, for the effective electronic transfer of required data from local agencies to state agencies; and

(4) perform any related duties to be determined by the commissioners court.

(b) Local officials responsible for collecting, storing, reporting, and using data may be appointed to the local data advisory board.

(c) The council and the Department of Public Safety shall, to the extent that resources allow, provide technical assistance and advice on the request of the local data advisory board.

SECTION 29. Section 1, Chapter 39, Acts of the 49th Legislature, Regular Session, 1945 (Article 6663a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) The State Department of Highways and Public Transportation is hereby authorized to photograph, microphotograph, or film all records of any kind or character pertaining to departmental operations; and the Texas Department of Public Safety is hereby authorized to photograph, microphotograph, or film all records in connection with the issuance of operators' licenses, chauffeurs' licenses, and commercial operators' licenses and all records of the various divisions of the Texas Department of Public Safety, with the exception that no original fingerprint card or any evidence submitted in connection with a criminal case or any confession or statement made by the defendant in a criminal case shall be photographed or filmed for the purpose of disposing of the original records, except as provided by Subsection (b) of this section, and that whenever the State Department of Highways

and Public Transportation or the Texas Department of Public Safety shall have photographed, microphotographed or filmed such records and whenever such photographs or microphotographs or films shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, the State Department of Highways and Public Transportation or the Texas Department of Public Safety may cause the original records from which the photographs, microphotographs or films have been made to be disposed of or destroyed; provided, however, that all deeds conveying land or interests in land to the State of Texas for highway purposes shall be retained and deposited in the offices of the State Department of Highways and Public Transportation at Austin, Texas. This authorization includes the creation of original records in micrographic form on media such as computer output microfilm.

(b) The Texas Department of Public Safety may destroy or dispose of a defendant's original fingerprint card if:

(1) the department has another original fingerprint card for the defendant on file and retains that card; or

(2) the defendant is now 80 years of age or older and the department retains a copy of the card on file.

SECTION 30. Section 3, Article 37.07, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) In cases in which the matter of punishment is referred to a jury, either party may offer into evidence the availability of community corrections facilities serving the jurisdiction in which the offense was committed.

SECTION 31. Section 16(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) A court granting probation to a defendant convicted of a felony may ~~shall~~ require as a condition of probation that the defendant work a specified number of hours under Section 17 of this article or work a specified number of hours in a supervision work program authorized under this section, unless the court determines that the defendant is physically or mentally incapable of participating in the work program or that participating in the work program will work a hardship on the defendant or the defendant's dependants, in which event the court shall note that fact on the order granting probation. The amount of work hours may not be less than 24 hours and may not be more than 1,000 hours. The court may not require the defendant to work more than eight hours during any week. The court shall make a good-faith effort to place the defendant in a type of work for which the defendant's previous job experience makes the defendant most suited.

SECTION 32. Section 328.005(e), Government Code, is repealed.

SECTION 33. Section 6A, Article 4413(49a), Revised Statutes, is repealed.

SECTION 34. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator McFarland and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on S.B. 41.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 41 ADOPTED**

Senator McFarland called from the President's table the Conference Committee Report on S.B. 41. (The Conference Committee Report having been filed with the Senate and read on Thursday, June 7, 1990.)

On motion of Senator McFarland, the Conference Committee Report was adopted by the following vote: Yeas 23, Nays 0.

Absent-excused: Bivins, Brown, Leedom, Lyon, Parmer, Santiesteban, Sims, Truan.

**ELECTION OF PRESIDENT PRO TEMPORE AD INTERIM
SEVENTY-FIRST LEGISLATURE, SIXTH CALLED SESSION**

The Presiding Officer announced that the time had arrived for the election of the President Pro Tempore Ad Interim, 6th Called Session, 71st Legislature.

On motion of Senator Harris and by unanimous consent, Senator Bob McFarland of Arlington was again elected by acclamation and administered the Oath of Office by Senator Brooks.

Senator Brooks announced that the caucus had chosen Senator Edwards to serve, upon the completion of Senator McFarland's term, as the Ad Interim President Pro Tempore, 6th Called Session, 71st Legislature.

(President Pro Tempore McFarland in Chair)

RECESS

On motion of Senator Brooks, the Senate at 12:07 p.m. took recess until 2:30 p.m. today.

AFTER RECESS

The Senate met at 2:30 p.m. and was called to order by President Pro Tempore McFarland.

MESSAGE FROM THE HOUSE

House Chamber
June 7, 1990

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on S.B. 41 by a record vote of 117 Ayes, 0 Noes, 1 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RESOLUTION 59

Senator Parker offered the following resolution:

WHEREAS, It is the wish of the Texas Senate that the unsightly white plastic structure on the south lawn of the Capitol be removed; and

WHEREAS, Charitably labeled a gazebo when erected as a temporary facility for some now-forgotten festivities, the thing has drawn the unfavorable attention of hundreds of thousands of visitors in the ensuing four years; though charming to some, this plastic atrocity is hardly in keeping with the historical period in which the Capitol was constructed; and

WHEREAS, Capitol guards and tour guides are continually plagued with queries about it: "What is THAT?" is the most common; "Surely that thing is temporary?" is often heard; and, "Does it get pushed over on Halloween nights?" is mild by comparison with some; and

WHEREAS, Though our state government is not given to hasty action, it is imperative that we rid our beloved Capitol grounds of this abominable belvedere or risk finding a historical marker on it someday; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 6th Called Session, hereby urge that this eyesore be melted down and removed without further ado.

(President in Chair)

The resolution was read and failed of adoption viva voce vote.

SENATE RESOLUTION 60
(Caucus Report)

Senator Brooks offered the following resolution:

Honorable William P. Hobby
President of the Senate
Austin, Texas

Sir:

At a caucus held on June 7, 1990, and attended by 21 Members of the Senate, the following recommendations were made, to wit:

BE IT RESOLVED by the Senate, That:

The Lieutenant Governor may employ such employees as are necessary for the operation of his office from the closing of this session and until the convening of the next session, and in addition thereto, he and the Secretary of the Senate shall be furnished postage, telegraph, telephone, express, and all other expenses incident to their respective offices.

The Secretary of the Senate shall be retained during the interval between adjournment of this session and the convening of the next session of the Legislature. The Secretary of the Senate may employ such employees as are necessary for the operation of her office and to perform duties as may be required in connection with the business of the state from the closing of this session and until the convening of the next session. All employees and elected officers of the Senate shall operate under the direct supervision of the Secretary of the Senate during the interim.

The Administration Chairman is authorized to retain a sufficient number of staff employees to conclude the work of the Enrolling Clerk, Calendar Clerk, Journal Clerk, and Sergeant-at-Arms. The Committee on Administration shall establish the salaries to be paid the Senate staff.

The Chairman of the Senate Committee on Administration is hereby authorized and directed to cause the Senate Chamber to be placed in order and to purchase such supplies and to make all such repairs and improvement as are necessary between the adjournment of this session and the convening of the next session of the Legislature and make an inventory of all furniture and fixtures in the Senate Chamber and in the private offices of the Members, as well as of the supplies and equipment on hand in the Purchasing and Supply Department and close his books for the 6th Called Session of the 71st Legislature. No equipment shall be

acquired on a rental/purchase plan unless such equipment be placed on the Senate inventory at the termination of such plan. He shall also examine records and accounts payable out of the Contingent Expense Fund as shall be necessary properly to approve all claims and accounts against the Senate, and no claim or account shall be paid without his consent and approval, and he and any member of the Administration Committee shall be entitled to receive his actual and necessary expenses incurred during the interim; and, be it further

RESOLVED, That there shall be printed 325 volumes of the Senate Journal of the 6th Called Session of the 71st Legislature; when complete 250 copies shall be bound in buckram and delivered to the Secretary of the Senate; one volume thus bound shall be forwarded by the Secretary of the Senate to each Member of the Senate, the Lieutenant Governor, and to each Member of the House of Representatives on request. The printing of such journals shall be done in accordance with the provisions of this Resolution under the supervision of the Chairman of the Committee on Administration; provided, further, that it shall be the duty of said chairman to refuse to receive or receipt for said Senate Journals until corrected and published in accordance with the preexisting law as finally approved by the Chairman of the Committee on Administration of the Senate. When the accounts have been certified by the Chairman of the Committee on Administration of the Senate, said accounts shall be paid out of the Contingent Expense Fund of the 71st Legislature; and, be it further

RESOLVED, That all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and Contingent Expense Fund of the 71st Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, Members of the Senate, employees of the Senate committees, and employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies, and expenses of the Senate, including travel expenses for Members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate; and, be it further

RESOLVED, That in furtherance of the legislative duties and responsibilities of the Senate, the Administration Committee is hereby authorized and directed to charge to the individual Member's office budget as hereinafter authorized: (1) reimbursement of all actual expenses incurred by the Members when traveling in performance of such duties and responsibilities or incident thereto, and (2) payment of all other reasonable and necessary expenses for the operation of the office of the individual Senator during any period the Legislature is not in session. Expenditures for these services by the Administration Committee as hereby authorized as an expense of the Senate shall not be restricted to Austin but may be incurred in individual senatorial districts. Such expenses shall be paid from funds appropriated for the use of the Senate on vouchers approved by the Chairman of the Administration Committee and the Secretary of the Senate in accordance with regulations governing such expenditures; and, be it further

RESOLVED, That for the time period from the end of the 71st Legislature, 6th Called Session, until the convening of the next regular or special session, each Senator shall be permitted to employ secretarial and other office staff and for intrastate travel expenses for staff employees a payroll of \$16,500.00 per month. Any unexpended portion of this amount may be carried forward from month to month until the end of the fiscal year. Other expenses, including travel expenses or other reasonable and necessary expenses incurred in the furtherance and

performance of legislative duties or in operation of his office or incident thereto, shall be provided in addition to the maximum salary authorized; and, be it further

RESOLVED, That in order to accrue vacation leave, compensatory/overtime leave, or sick leave, employees of Members must file monthly time sheets with the Senate Personnel Office by the 10th of the month following the month in which work was performed. Employees of Members and committees must use compensatory/overtime within 18 months of the month in which the time was accrued. No compensatory/overtime will be paid at either the end of the fiscal year or at an employee's termination; and, be it further

RESOLVED, That the Lieutenant Governor shall have the authority to appoint any Member of the Senate, the Secretary of the Senate, or other Senate employee to attend meetings of the National Conference of State Legislatures and other similar meetings. Necessary and actual expenses are hereby authorized upon the approval of the Chairman of the Administration Committee and the Secretary of the Senate. The Lieutenant Governor shall have the authority to designate a Member of the Senate to represent the Senate at ceremonies and ceremonial functions. Necessary expenses for performance of these duties and for necessary staff are hereby authorized to be paid pursuant to a budget approved by the Administration Committee; and, be it further

RESOLVED, That each of the standing committees and subcommittees of the Senate of the 71st Legislature be authorized to continue to meet at such times and places during the interim as determined by such committees and subcommittees and to hold hearings, recommend legislation, and perform research on matters directed either by Resolution, the Lieutenant Governor, or as determined by majority vote of each committee. Each continuing committee and subcommittee shall continue to function under the rules adopted during the legislative session where applicable. Expenses for the operation of these committees and subcommittees are hereby authorized to be paid pursuant to a budget prepared by each committee and approved by the Administration Committee; and, be it further

RESOLVED, That the operating expenses of this committee shall be paid from the Contingent Expense Fund of the Senate, and the committee members shall be reimbursed for their actual expenses incurred in carrying out the duties of the committee; and, be it further

RESOLVED, That any Members not returning for the 72nd Legislature will vacate their Senate offices by December 15, 1990; and, be it further

RESOLVED, That no employee of the Senate shall during the time he or she is employed furnish to any person, firm, or corporation any information other than general information furnished the public pertaining to the Senate, and they shall not without permission receive any compensation from any person, firm, or corporation during their employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged; and, be it further

RESOLVED, That the Secretary of the Senate is specifically directed not to permit the removal of any of the property of the Senate from the Senate Chamber or the rooms of the Senate except as authorized by the Chairman of the Administration Committee.

Respectfully submitted,

/s/Chet Brooks

Chairman of the Caucus

/s/Carl A. Parker

Secretary of the Caucus

The resolution was read and was adopted viva voce vote.

SENATE RESOLUTION 58

Senator Brooks offered the following resolution:

WHEREAS, Bryan Sperry has made immeasurable contributions to the health and well-being of poor Texas children and families through his many years of dedicated service with the Texas Department of Human Services and the Texas Senate; and

WHEREAS, Those who have benefitted and will benefit for many years to come may never know the vital role he played in improving their quality of and access to health care; and

WHEREAS, As Staff Director of the Task Force on Indigent Health Care, Bryan undertook the mammoth task of revamping the state's health care delivery system to expand services and eliminate the great disparities in medical care available to the poor and uninsured citizens of Texas; and

WHEREAS, His professionalism, integrity, and expertise as Lieutenant Governor William P. Hobby's lead advisor on health and human services issues have earned him the deep respect and admiration of his colleagues and the members of the Texas Senate; and

WHEREAS, Bryan worked tirelessly to develop and secure adequate funding for Governor Hobby's anticrime plan of 1989, "Unlocking the Future of Texas," aimed at breaking the cycle of poverty, violence, illiteracy, and crime; and

WHEREAS, Bryan was always unfailingly congenial, committed, and helpful to all who worked with him; and

WHEREAS, He consistently maintained a calm presence in the midst of often tense discussions and deliberations; and

WHEREAS, Bryan's depth of knowledge, skills, and talents made him the ideal choice as the first Executive Director of the newly created Center for Rural Health Initiatives; and

WHEREAS, His reputation in the Senate remains unblemished with the exception of one occasion when he reportedly was caught red-handed and red-faced in the Barbara Jordan lounge, reserved for female Senators and staff persons; and

WHEREAS, When questioned about this event, he alleges to have been coerced, or more accurately, forcibly dragged, into the women's water closet by devious and rebellious female colleagues; and

WHEREAS, Bryan may never acknowledge the veracity of this incident nor the pleasure he derived from it; and

WHEREAS, Public disclosure of this single violation of decorum shall not taint the integrity of this remarkable and devoted public servant; and

WHEREAS, The Texas Senate will miss him tremendously but will continue to rely on his counsel about important health and human services issues facing our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 6th Called Session, hereby congratulate Bryan on his new position and extend its gratitude to him; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Bryan as an expression of best wishes from the Texas Senate for a successful, prosperous, and fulfilling future.

The resolution was read and was adopted viva voce vote.

GUEST OF SENATE

At the President's request, Mr. Sperry addressed the Senate, expressing his appreciation for the opportunity to work with the Senate.

(Senator Brooks in Chair)

SENATE RESOLUTION 30

Senator Brooks offered the following resolution:

WHEREAS, As the end of the 71st Texas Legislature approaches, it is appropriate that the Senate reflect on the contributions to this body made by its president for the past 18 years and nine legislatures; and

WHEREAS, William P. Hobby, Jr., first came to the Senate in 1959 as its parliamentarian at the age of 27; he had already earned a degree from Rice University, served four years as an officer in naval intelligence, married, become a father, and begun a distinguished career in journalism; and

WHEREAS, In the succeeding 14 years he added extensive government service to his valuable parliamentary experience: at the national level, as a member of President Lyndon B. Johnson's Presidential Task Force on Suburban Problems and the National Citizens Advisory Committee on Vocational Rehabilitation; at the state level, as a member of the board of regents at the University of Houston for four years; as a member of the Texas Air Control Board; and as public member and chairman of the Senate Interim Committee on Welfare Reform; and

WHEREAS, In 1972, Texas voters found his background and proven ability qualified him to be lieutenant governor, and they have since reelected him four times; and

WHEREAS, The three boards the lieutenant governor chairs, the Legislative Budget Board, the Legislative Education Board, and the Texas Legislative Council, have benefitted immeasurably from his leadership and judgment, as have the numerous committees on which he has served; and

WHEREAS, The wholehearted commitment of time and self in service to his state springs not from obligation but a deep-rooted concern for the underprivileged, the handicapped, the children, the citizens of Texas; and

WHEREAS, The "Hobby Era" in Texas politics will be notable for accomplishments in the areas of education, indigent health care, mental health, public assistance, water conservation, workers' compensation, and fiscal management—Governor Hobby's "special interests"; and

WHEREAS, In public education, progress towards excellence in the classroom, after the 1984 reform legislation that he championed, is becoming a model for other states; and

WHEREAS, He has successfully promoted his vision of higher education as the key to Texas' future: restoration of funding; higher education opportunities in South Texas; salaries which attract faculty; and university research programs which are envied throughout the United States; and

WHEREAS, It is Bill Hobby's nature to quietly work in the background, giving credit for achievements to the Members; and

WHEREAS, William P. Hobby, Jr., has made the citizens of Texas—and us—proud and grateful for his leadership as lieutenant governor; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 6th Called Session, do hereby declare that Lieutenant Governor William P. Hobby, Jr., has been the guiding hand for and example to the Texas Senate in its legislative achievements during his 18 years in office; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as recognition of his unparalleled record of accomplishment in his office for the betterment of the citizens of Texas and as an expression of lasting gratitude and utmost affection and respect from the Texas Senate.

The resolution was read.

On motion of Senator Harris and by unanimous consent, the names of the Senators were added to the resolution as signers thereof.

On motion of Senator Brooks, the resolution was adopted viva voce vote.

The President was presented an enrolled copy of S.R. 30 and received a warm expression of admiration and appreciation from the Members of the Senate, staff, press and Senate personnel.

The President acknowledged this reception with brief remarks.

(President in Chair)

SENATE CONCURRENT RESOLUTION 3

Senator Brooks offered the following resolution:

BE IT RESOLVED, That the 71st Legislature of the State of Texas, 6th Called Session, having completed its labors stand adjourned sine die.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

**STATEMENT OF SUPPORT FROM HOUSE
OF REPRESENTATIVES**

Speaker Gib Lewis, representing a large delegation of Members of the House of Representatives assembled at the Bar of the Senate, expressed to the President the affection and appreciation of those House Members who have served during the President's term of office.

SENATE NOTIFIED

A Committee from the House of Representatives appeared at the Bar of the Senate and Representative Gibson for the Committee notified the President and Members of the Senate that the House had adjourned sine die.

MOTION IN WRITING

Senator Brooks offered the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) Members to notify the Governor that the Senate has completed its labors and is ready to adjourn sine die.

BROOKS

The Motion in Writing was read and was adopted viva voce vote.

Accordingly, the President announced the appointment of the following Committee to Notify the Governor: Senators Parker, Armbrister, Ellis, Haley and Krier.

MOTION IN WRITING

Senator Brooks offered the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) Members to notify the House of Representatives that the Senate has completed its labors and is ready to adjourn sine die.

BROOKS

The Motion in Writing was read and was adopted viva voce vote.

Accordingly, the President announced the appointment of the following Committee to Notify the House of Representatives: Senators Barrientos, Carriker, Green, Johnson and Tejada.

(Senator Parker in Chair)

BILL SIGNED

The Presiding Officer announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

S.B. 1

(President in Chair)

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

S.J.R. 2	S.B. 35	H.B. 36	H.C.R. 11
S.C.R. 1	S.B. 41	H.B. 47	H.C.R. 12
S.C.R. 3	S.B. 43	H.B. 48	H.C.R. 13
S.B. 5	S.B. 49	H.B. 80	H.C.R. 14
S.B. 6	S.B. 51	H.C.R. 1	H.C.R. 15
S.B. 9	S.B. 53	H.C.R. 2	H.C.R. 16
S.B. 12	H.B. 4	H.C.R. 3	H.C.R. 17
S.B. 16	H.B. 5	H.C.R. 4	H.C.R. 18
S.B. 18	H.B. 6	H.C.R. 5	H.C.R. 20
S.B. 23	H.B. 9	H.C.R. 6	H.C.R. 21
S.B. 24	H.B. 14	H.C.R. 7	H.C.R. 22
S.B. 25	H.B. 16	H.C.R. 8	H.C.R. 24
S.B. 34	H.B. 22	H.C.R. 9	H.C.R. 26
	H.B. 32	H.C.R. 10	

S.B. 3 (Signed subject to Art. III,
Sec. 49a of the Constitution)

S.B. 11 (Signed subject to Art. III,
Sec. 49a of the Constitution)

S.B. 13 (Signed subject to Art. III,
Sec. 49a of the Constitution)

S.B. 17 (Signed subject to Art. III,
Sec. 49a of the Constitution)

S.B. 46 (Signed subject to Art. III,
Sec. 49a of the Constitution)

AT EASE

The President at 3:20 p.m. announced the Senate would stand At Ease pending the receipt of a message from the House.

(Senator Brooks in Chair)

IN LEGISLATIVE SESSION

The Presiding Officer at 3:35 p.m. called the Senate to order as In Legislative Session.

MESSAGE FROM THE HOUSE

House Chamber
June 7, 1990

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 3, The 71st Legislature of the State of Texas, 6th Called Session, having completed its labors, stands adjourned sine die.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(President in Chair)

MOTION TO ADJOURN SINE DIE

On motion of Senator Brooks, the Senate at 3:35 p.m. agreed to adjourn sine die upon completion of administrative duties.

MEMORIAL RESOLUTIONS

S.R. 55 - By Glasgow: In memory of William M. Gray, Jr., of Cleburne.

S.R. 56 - By Glasgow: In memory of Hubert Beck of Glen Rose.

S.R. 57 - By Glasgow: In memory of Travis Trammell of Azle.

CONGRATULATORY RESOLUTIONS

S.R. 43 - By Sims, Truan: Commending L. E. (Gene) Blanton, Jr., for his extraordinary efforts on behalf of the schoolchildren of Texas.

S.R. 44 - By Truan: Commending the Center for Marine Conservation and the Texas Adopt-A-Beach Program.

S.R. 45 - By Lyon: Extending best wishes to Jerry Strader, one of our State's most distinguished journalists.

S.R. 46 - By Tejeda: Extending best wishes to the Fraternity of American "Airborne" for a most rewarding 50th anniversary.

S.R. 47 - By Montford: Commending and congratulating the administration, teachers, and volunteers of the Texas School Volunteer Program at Burnet Elementary School on winning the 1990 Outstanding School Campus Volunteer Program Award.

S.R. 48 - By Ellis: Commending Mrs. Zoia Lemelle Jones of Houston for her superb efforts on behalf of her fellowman.

S.R. 49 - By Ellis: Commending the outstanding programs of Kuumba House in bringing cultural learning and opportunity to minority youth in Houston.

S.R. 50 - By Parker: Extending congratulations to Mr. and Mrs. Dempsey Humphries of Beaumont on their 50th wedding anniversary.

S.R. 51 - By Parker: Extending congratulations to Mr. and Mrs. John Wallace Hulin of Port Arthur on their 50th wedding anniversary.

S.R. 52 - By Parker: Extending congratulations to Mr. and Mrs. Carroll C. Pfeider of Beaumont on their 50th wedding anniversary.

S.R. 53 - By Parker: Extending congratulations to Mr. and Mrs. George Orena of Port Arthur on their 50th wedding anniversary.

S.R. 54 - By Truan: Commending the faith and courage that enabled Mr. and Mrs. Paul York to make the important decision of joining the Roman Catholic Church.

S.R. 61 - By Barrientos: Declaring Tejas as an official publication of The University of Texas at Austin.

ADJOURNED SINE DIE

The President announced that the hour for final adjournment of the 6th Called Session of the 71st Legislature had arrived.

Senator Brooks at 3:36 p.m. moved that the Senate stand adjourned sine die in accordance with a motion previously adopted.

The President declared the 6th Called Session of the 71st Legislature adjourned sine die.

APPENDIX

Sent to Comptroller

(June 7, 1990)

S.B. 3

S.B. 11

S.B. 13

S.B. 17

S.B. 46

Sent to Governor

(June 7, 1990)

S.C.R. 1

S.C.R. 3

S.B. 1

S.B. 5

S.B. 6

S.B. 9

S.B. 12

S.B. 16

S.B. 18

S.B. 23

S.B. 24

S.B. 25

S.B. 34

S.B. 35

S.B. 41

S.B. 43

S.B. 49

S.B. 51

S.B. 53

Signed by Governor
(June 7, 1990)

S.B. 1 (Effective September 1, 1990)

Filed with Secretary of State
(June 8, 1990)

S.J.R. 2

Sent to Governor
(June 8, 1990)

S.B. 3

S.B. 11

S.B. 13

S.B. 17

S.B. 46

Signed by Governor
(June 7, 1990)

H.B. 4 (Effective September 1, 1990)

H.B. 5 (Effective September 1, 1990)

H.B. 6 (Effective July 1, 1990)

S.B. 12 (Effective immediately)

Signed by Governor
(June 13, 1990)

S.C.R. 3

H.C.R. 1

H.C.R. 2

H.C.R. 3

H.C.R. 4

H.C.R. 5

H.C.R. 6

H.C.R. 7

H.C.R. 8

H.C.R. 9

H.C.R. 10

H.C.R. 11

H.C.R. 12

H.C.R. 13

H.C.R. 14

H.C.R. 15

H.C.R. 16

H.C.R. 17

H.C.R. 18

H.C.R. 20

H.C.R. 21

H.C.R. 22

H.C.R. 24

H.B. 48 (Effective September 6, 1990)
(June 14, 1990)

H.B. 14 (Effective September 6, 1990)

H.B. 16 (Effective immediately)

H.B. 36 (Effective September 6, 1990)

H.B. 47 (Effective immediately)

H.B. 80 (Effective immediately)
S.B. 43 (Effective September 6, 1990)
S.B. 49 (Effective September 1, 1990)
S.B. 51 (Effective immediately)
S.B. 53 (Effective immediately)
S.C.R. 1

(June 18, 1990)

S.B. 3 (Effective immediately)
S.B. 6 (Effective immediately)
S.B. 9 (Effective immediately)
S.B. 13 (Effective immediately)
S.B. 16 (Effective immediately)
S.B. 18 (Effective immediately)
S.B. 24 (Effective November 1, 1990)
S.B. 25 (Effective immediately)
S.B. 34 (Effective immediately)
S.B. 41 (Effective immediately)

H.C.R. 26

H.B. 32 (Effective September 1, 1990)

(June 19, 1990)

S.B. 11 (Effective immediately)
S.B. 17 (Effective September 6, 1990)
S.B. 23 (Effective immediately)
S.B. 35 (Effective immediately)
S.B. 46 (Effective immediately)

Signed by Governor

(June 20, 1990)

H.B. 22 (Effective September 6, 1990)

S.B. 5 (Effective immediately)

S.B. 5 (Effective immediately)

Vetoed by Governor

(June 21, 1990)

H.B. 9

PROCLAMATION BY THE GOVERNOR

The following Proclamation states the reason for veto by the Governor:

41-2417

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto H.B. 9 because of the following objections:

This bill would permit road districts that are experiencing financial difficulties to restructure their debt. The bill would redistribute debt costs among landowners and extend debt service obligations to those with agricultural use exemptions. I believe that this is an inappropriate way to deal with the financial difficulties.

All across the state, debt has been issued in the form of bonds by special districts to build roads and other

infrastructure. Repayment of the debt incurred is often based on inaccurate projections of future growth increasing the tax base. Local developers or those responsible for these projects should bear the risk, as they bear the rewards, when problems arise. It is not fair to change the rules in the middle of the game, after the debt has already been issued. Under the provisions of this bill, the local county commissioners could completely change who has to repay the debt, in what amounts, and even include agricultural use landowners who have been completely exempt from these type of taxes.

I do not agree with the way this bill handles the problem of a financially distressed road district. The 72nd Legislature should thoroughly review the problems with these types of districts and consider the impact of this type of legislation on other special districts throughout the state.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 21st day of June, 1990.

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

